

February 26, 2026
Sl. No.10
Court No.1
s.biswas

FMA 1696 of 2025
With
CAN 1 of 2026

Tanay Kumar Pal
vs.
The State of West Bengal and others

Mr. Subhonkar Nag
Mr. Abhishek Banerjee
... for the appellant
Mr. Suman Sengupta
Mr. Daipayan Basu Mallick
Mr. Akash Bera
Ms. Puja Bera
... for the State

Per, Sujoy Paul, C.J.

1. Mr. Subhonkar Nag, learned counsel for the appellant and Mr. Suman Sengupta, learned counsel for the State, are present. With the consent, the matter is finally heard.
2. The challenge in this intra-court appeal is mounted to the order dated 19.08.2025 passed by learned Single Judge in WPA 17141 of 2025. The writ petitioner/appellant prayed for following reliefs:

“a) Issue a Writ of/ or in the nature of Mandamus commanding the respondents Nos. 1 to 4 and/ or each of

them, their officers, servants, men, agents and instrumentalities to forthwith assist in evicting the unauthorized occupants from the said property situated at under Plate Nos. HB 40 and HL 166/C at Ramkristopur, Howrah in terms of the order dated June 23, 2025 by providing police assistance within the time-frame mandated by this Hon'ble Court.

- b) Issue a writ of/or in the nature of mandamus commanding the Respondent authorities to provide police picket at the site in question at the cost of the Petitioner so that the assets present therein are protected after handing over possession to the Petitioner.*
- c) Issue a Writ of/or in the nature of Mandamus directing the respondent authorities to ensure the petitioner and their men, agents, servants and assigns or anybody acting there under to have free ingress and egress in the said property;*
- d) Issue a Writ of or in the nature of Certiorari calling upon the respondents and each of them, their men, agents, servants and assigns to transmit and produce all the records pertaining to this instant case before this Hon'ble Court so that conscionable justice may be administered by passing appropriate direction or directions, order or orders;*
- e) Rule NISI in terms of prayers as above;*
- f) Pass an interim order directing the Respondent authorities or their men, agents, servant, officers acting thereunder to or anybody ensure that possession of the subject premises is handed over to the Petitioner immediately and to maintain law and order situation at the said premises.*
- g) Ad interim order in terms of prayer (f) as above;*
- h) Pass such further order and/or orders and/or direction and/or directions as*

this Hon'ble Court may deem fit and proper.”

3. Learned counsel for the appellant submits that after recording the rival contentions, learned Single Judge has declined interference solely on the ground that an appeal is pending and therefore the alternative remedy is available to the petitioner and hence the petition at this stage is not maintainable.
4. Criticizing this finding, learned counsel for the appellant submits that the appellant is an authorized officer who was duly appointed by the competent authority. In exercise of power under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to 'the Act of 1971'), he passed an order of eviction. However, in order to execute the said order of eviction, he needs police force for which he wrote a letter/request to the police authorities to provide police protection. Although police force came at the time of execution but did not perform

their duties to ensure the eviction. Thus, instant writ petition was filed seeking appropriate direction/writ of mandamus.

5. Learned counsel for the appellant submits that if in the meantime the persons who suffered the eviction order have challenged in the appeal, the said appellate remedy, by no stretch of imagination, can be said to be an alternative remedy for the present appellant. Thus, the learned Single Judge rejected the writ petition on incorrect and impermissible ground. Thus, interference may be made.
6. Learned counsel for the State submits that State has several objections including the objection relating to locus, suppression of material fact, non-joinder of necessary parties, etc. These aspects are required to be looked into.
7. No other point is pressed by learned counsel for the parties.
8. We have examined the order of learned Single Judge in juxtaposition to the relief claimed in the writ petition. The singular

reason which impressed the learned Single Judge to dismiss the writ petition was an alternative remedy of appeal. We find substantial force in the argument of learned counsel for the appellant that the said remedy has nothing to do with the relief claimed in the instant writ petition. That appellate remedy may be relevant for those persons who have suffered an order of eviction under the said Act. Thus, the singular reason on which petition was dismissed cannot sustain judicial scrutiny. Resultantly, impugned order dated 19.08.2025 is set aside. WPA 17141 of 2025 is restored to its original number.

9. Accordingly, FMA 1696 of 2025 and connected application stand **disposed of**.

10. It is made clear that this court except aforesaid finding on alternative remedy has not expressed any opinion on merits of the case. All the points will remain open to be raised and decided before the learned Single Judge. Considering the nature of matter, Registry is directed to list the

matter before the learned Single Judge having determination in the week commencing 9th March, 2026.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)