

04.08.2026
Court No.25
D/L No.4
S. Gayen

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 18427 of 2026
with
CAN 1 of 2026

M/s. Starburst Motors Private Limited
Versus
Union of India & Ors.

Mr. Jaydip Kar, Sr. Adv.
Mr. Suman Dutt, Sr. Adv.
Mr. Paritosh Sinha
Mr. Amitava Mitra (VC)
Ms. Sumita Shaw
Mr. Anman Agarwal
Mr. Deep Basak
Ms. Anusuya Thatoi

...for the Petitioner

Mr. Saptangsu Basu, Sr. Adv.
Mr. Ashok Kr. Jena

...for the Respondent Nos.2 & 3

Mr. Dhiraj Kumar Trivedi, Ld. ASGI
Mr. Ajit Kumar Chaubey
Ms. Anamika Pandey

...for the Respondent Nos.4 to 7
and the applicant of CAN 1 of 2026

Ms. Sudipa Banerjee
Ms. Mary Dutta
Ms. A. Chakraborty

...for the State

1. The respondent Nos. 4 to 7 have filed the present application being CAN 1 of 2026 praying for staying of the operation of the order dated July 28, 2026.
2. The learned ASGI appearing for the respondent Nos. 4 to 7 submits that at the time of hearing for grant of interim prayer of the petitioner, the learned counsel for the respondent Nos. 4 to 7 has categorically argued before this Court that the said land coming under the

defence area and the port trust illegally published the tender notice and given the possession of the said property to the petitioner on lease but at that point time the respondents could not get an opportunity to produce the document and this Court has passed the order by restraining the respondent Nos. 4 to 7 from interfering with the possession of the petitioner over the premises and making any construction over the plot of land in question till September 9, 2026.

3. Learned counsel for the respondent Nos. 4 to 7 submits that now the petitioner has disclosed the document which shows that the area is coming under the defence land and if at this stage, the petitioner is allowed to make any construction over the property without giving any opportunity of hearing to the respondent Nos. 4 to 7 to file the affidavit-in-opposition to establish their claim that the land belongs to the defence, the same would be multiplicity of the proceeding in future. Learned counsel for the respondent Nos. 4 to 7 submits that in the writ petition the petitioners have not prayed for any interim order for making construction, only they have made a prayer for renovation but this Court has passed an order by allowing the petitioner for construction over the property. Learned counsel for the respondent Nos. 4 to 7 submits that the respondent Nos. 4 to 7 will not interfere with the possession of the petitioner over the property, only the respondent Nos. 4 to 7, at this stage,

prays for modification of the order by not allowing the petitioner to make any construction over the property.

4. The learned counsel for the petitioner submits that this Court has passed the interim order after hearing all the parties. He further submits that before hearing of the writ petition, the writ petition was served upon the respondent authorities. He submits that even after the order passed by this Court on July 28, 2026, till date none of the employees of the petitioner is able to enter into the premises as the defence personnel are not allowing the petitioner's men and agents to enter into the said landed property and the respondent Nos. 4 to 7 are using their force by threatening the men and agents of the petitioner to enter into the landed property. He further submits that this Court has passed the interim order after going through all the documents being satisfied that the land belongs to the port authorities and the port authorities have published the tender notice and as per the tender the petitioner was the highest bidder and accordingly, the port authorities have granted lease to the petitioner. Learned counsel for the petitioner further submits that the respondent Nos. 4 to 7 have not challenged the tender notice. As such, at this stage, they cannot claim the land in question that the land belongs to the defence.
5. Learned counsel appearing for the port authorities submits that the application filed by the respondent

Nos. 4 to 7 is not maintainable in terms of the second Proviso provided under Order XXXIX Rule 4 as this Court has passed the interim order after hearing all the parties. The learned counsel for the respondent Nos. 4 to 7 have argued the matter and after considering the same this Court has passed the interim order. There is no change of circumstances for modification or variation of the order passed by this Court as prayed for by the respondent Nos. 4 to 7.

6. Heard the learned counsel for the respective parties. Considered the materials on record and the application filed by the respondent Nos. 4 to 7.
7. By an order dated July 28, 2026 this Court passed an interim order by restraining the respondent Nos. 4 to 7 from interfering with the possession of the petitioner over the premises and making any construction over the plot till September 9, 2026. Though the respondent Nos. 4 to 7 have prayed for staying of the operation of the order dated July 28, 2026 but, when the matter was taken up for hearing, the respondent Nos. 4 to 7 have confined to the prayer that the portion of the order by which the petitioner is allowed to make construction is to be modified by not allowing the petitioner for making any construction till the final hearing of the writ application.
8. It is the specific case of the respondent Nos. 4 to 7 that the land is coming under the defence land but the port authorities, knowing fully well, have published the

tender notice and entered into a lease agreement with the petitioner. This Court finds that the said question is to be decided only after exchange of affidavit.

9. The respondents Nos. 4 to 7 have categorically made the submission before this Court that they will not interfere with the possession of the petitioner over the land in question but only they have aggrieved with the order for making construction over the property by the petitioner.
10. In view of the above, this Court finds that the respondent Nos. 4 to 7 have raised the dispute with regard to the ownership of the property and the defence authorities are claiming that the land belongs to them. The port authorities are also claiming that the land belongs to the port authorities, on the basis of which, the port authorities have issued the tender notice and after the completion of the tender process, the same was allotted to the petitioner.
11. Considering the above, the order dated July 28, 2026 is modified only to the extent by directing the petitioner not to make any construction over the property except renovation, if urgently required, over the existing building situated in the property in question till September 9, 2026. The respondents are directed to complete the pleadings in terms of the order dated July 28, 2026.
12. Accordingly, CAN 1 of 2026 is disposed of.

13. Let the matter appear on September 9, 2026 under the heading 'Urgent Matters'.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Krishna Rao, J.)