



13<sup>th</sup> August,  
2025  
(AK)  
17

**M.A.T 1294 of 2025**  
**IA No: CAN 1 of 2025**

Alok Chakraborty and others  
Vs.  
Union of India and others

Mr. Milan Bhattacharya  
Mr. Mohinoor Rahaman  
Ms. Sulagna Bhattacharya  
Ms. Iqra Rahaman  
...for the appellants/petitioners.

Mr. Debajyoti Deb  
Mr. Debashish Basak  
...for the Union of India.

1. The present appeal has been preferred against an order dated August 8, 2025 in WPA 18067 of 2025 whereby the learned Single Judge, while dismissing the writ petition preferred against an eviction cum show cause notice dated August 1, 2025 issued by the respondent authorities against the petitioners, also directed police assistance for the purpose of carrying out the proposed eviction programme by evicting the present appellants.
2. Learned senior counsel appearing for the appellants submits that the impugned judgment is bad in law on several counts.
3. By placing reliance on a communication dated February 21, 2006 issued by the Divisional Engineer (ARBN)/Howrah, it is argued that by the



- said letter, in reply to the application of the petitioners to do business on the spareable railway property in dispute, the petitioners were requested to submit proper documents regarding formation of a registered cooperative society to the author of the said letter “for taking necessary action” at that end.
4. Thereafter, the petitioners obtained a registration of their cooperative society and moved the Railway Authorities for necessary permission by giving a representation.
  5. Initially, the representation was turned down without passing any reasoned order, whereupon a challenge was preferred before this court and pursuant to a direction of this court, an opportunity of hearing was given to the petitioners and thereafter an order was passed on October 17, 2023, thereby turning down the said representation of the petitioners on the specious ground that the Railway Authority had not given permission to the petitioners for registration of their cooperative society, thereby doing a volte face on the stand taken by the Railways by their letter dated February 21, 2006.
  6. Although previously an order of status quo was granted in connection with a prior writ petition, the said writ petition was dismissed for default in 2007.



7. However, the Railway Authorities sat tight over the matter and waited till August 1, 2025 to issue the impugned eviction cum show-cause notice.
8. It is next contended by learned senior counsel for the appellants that the disputed property comes within the definition of the “premises” as given in Section 2(c) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as ‘the 1971 Act’).
9. As such, the petitioners are governed by the said Act and in the event the Railway Authorities were of the opinion that the petitioners are “unauthorized occupants” within the contemplation of the 1971 Act, a prior formation of opinion in that regard under Section 4 of the Act had to be made and thereafter, only upon a notice being issued and upon proper hearing, could an eviction order be passed, that too by the Estate Officer designated for such purpose, which procedure has not been followed in the present case.
10. Thirdly, it is argued that the impugned notice dated August 1, 2025 is captioned as an “eviction cum show cause notice”; however, no opportunity to show cause was given at all to the petitioners before seeking to implement the same.
11. Also, the authority of the Assistant Engineer in passing the order dismissing the representation of



- the petitioners has been challenged in the previous writ petition.
12. However, despite the same having been adjourned on one occasion on the prayer of both parties, by completely overlooking the pendency of the same, the eviction notice dated August 1, 2025 was issued.
  13. The appellants rely on a judgment reported at 1974 CLJ 465 (*Dr. Hari Pada Poddar vs. S.R Das, Secretary to Govt. of West Bengal, Dept. of Health*) wherein it was held that the act of taking steps in a disciplinary proceedings despite the pendency of a writ petition challenging the action of the respondents would invite the contempt jurisdiction of the court.
  14. Learned counsel appearing for the Railway Authorities opposes the arguments of the appellants and submits that no question of any promissory estoppel arises, since at no point of time was any consensus *ad idem* reached by the parties or any promise made by the Railways to give the land or allot the same to the petitioners.
  15. It is also argued that the 1971 Act is not applicable in the facts of the present case.
  16. Furthermore, in the pending writ petition in connection with the refusal of the representation of the petitioners, bearing WPA 28289 of 2023, an



- adjournment was sought by both parties including the present appellants.
17. Moreover, on an occasion prior to the said date, that is, April 8, 2024, the petitioners had failed to appear, although the respondents were represented.
  18. Thus, the inability of the appellants to obtain a stay order in connection with the said writ petition, which is pending since 2023, does not automatically operate as stay of all proceedings in respect of eviction of the appellants.
  19. Upon hearing learned counsel for the parties, we find that a sufficient *prima facie* case has been made out by the appellants for the appeal to be heard on merits.
  20. Apart from the question of applicability and the interplay of the 1971 Act and the Railways Act, as to which of the said statutes is applicable for eviction of the appellants/petitioners, we also find that a *prima facie* has been made out, of the learned Single Judge having overstepped his jurisdiction in directing police help to implement the eviction drive of the Railway Authorities, beyond the scope of the writ petition itself, thereby passing virtually an execution order along with the parent order dismissing the writ petition.



21. That apart, we also have to take into consideration as to whether the representation given out by the Railway Authorities to the appellants insofar as considering the proposal of the appellants for setting up business on the disputed property, subject to the appellants getting registration of their cooperative society, would operate as promissory estoppel against the Railways.
22. Thus, a sufficiently strong *prima facie* case for grant of stay has been made out.
23. Accordingly, we grant stay of operation of the impugned judgment dated August 8, 2025 passed in WPA 18067 of 2025 as well as stay of operation of the eviction cum show cause notice dated August 1, 2025, which was the subject-matter of challenge in the writ petition, till September 30, 2025 or until further order, whichever is earlier.
24. The respondents shall file their affidavit-in-opposition to CAN 1 of 2025 within a fortnight from date. Reply, if any, shall be filed within a week thereafter.
25. The application shall be listed for hearing next on September 11, 2025.

**(Sabyasachi Bhattacharyya, J.)**

**(Uday Kumar, J.)**