

S. B. CIVIL WRIT PETITION NO.7995/2007  
SMT. CHAMPA DEVI & ORS. V. ACJM, JAITARAN & ORS.

DATE OF ORDER                      :::                      01/04/2008

HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI

Mr. Anuj Kalla, for Petitioner (s).



By this writ petition, the petitioners have challenged the issuance of notice being contrary to the provisions of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act of 2005'). According to the counsel for the petitioner, as per the definition of "respondent", a female cannot be given notice. The learned counsel for the petitioner submits that since the petitioner is a female, she could not have been given notice under the Act of 2005. During the course of arguments, learned counsel for the petitioners admitted that a reply to the notice has already been submitted before the competent court and therein, the objection as has been raised herein in the present petition, has otherwise been taken in the reply also.

In view of the above, since the petitioners have already taken necessary objection before the competent court hearing the matter submitted under the Act of 2005, thus the petitioners cannot take two simultaneous remedies for one and the same cause. In so far as the jurisdiction of the writ petition is concerned, same is not maintainable, in view of the fact that the same has been filed only against the notice and pursuant to the notice, the petitioner has already filed reply before the competent court, taking objection as has been raised herein. Thus, necessarily, the objection raised in the present petition would be decided by the competent court, as such the present writ petition is not maintainable and the same is dismissed. However, the competent court is directed to decide the objection raised by the petitioner herein expeditiously and if it is found that no notice can be issued against the petitioner as per the provisions of the Act of 2005, then necessary orders be passed accordingly.

With the aforesaid directions, the writ petition is dismissed.

(M. N. BHANDARI), J.

scd



