

03.09.2020
S/L No.36
(Through Video Conference)
(NB/SK)
Ct. No. 8

MAT 524 of 2020
With
CAN 1 of 2020(Old No:CAN 5575 of 2020)
CAN 2 of 2020(Old No:CAN 5578 of 2020)

Suvo Addhya & Anr.
Vs.
Manappuram Finance Limited & Ors.

Mr. Aniruddha Chatterjee,
Mr. Asif Sohail Tarafdar
...for the Appellants.

Mr. Saptansu Basu, Sr. Adv.
... for the Municipality

Mr. Partha Pratim Roy,
Mr. Ayan Banerjee
...for the State

The petitioners undertake to affirm and stamp the petition as per the Rules within one month of resumption of normal functioning of the court. The petition is taken up through video-conference on the basis of such undertaking.

This appeal is at the instance of the owner of a property following under the Bangaon Municipality. The petitioners complained that just because he is the son of the present administrator of the Municipality, the writ Court usurped jurisdiction in a purely property dispute between the landlord and the tenant and directing the supply of electricity and water connection to the premises in question under the supervision of the police authorities.

The Municipality represented by the senior counsel Mr. Saptansu Basu has submitted that the writ application is

not maintainable as this is purely a landlord-tenant dispute and the writ Court has travelled beyond its jurisdiction in granting the reliefs that are usually not granted by the writ Court.

Extraordinary situation requires extraordinary measures could be the justification weighed with the learned trial Court in entertaining the writ petition and passing certain drastic order with a view to protect the valuable right of a tenant who is undisputedly in possession of a premises wherefrom it carries on its business. The writ Court no doubt would not entertain the dispute between the landlord and tenant unless the landlord is having a public law element and acted arbitrarily. In this case, we are not required to decide the fine line of distinction between the public and private law in relation to the writ jurisdiction.

Undoubtedly, one of the reliefs claimed in the application is in respect of a letter dated 26th February, 2020 by which the petitioners were threatened with cancellation of the certificate of enlistment in absence of production of NOC from the land owner for continuing its branch office at the premises in question.

The appellant no. 1 is the son of appellant no. 2, who happens to be the erstwhile chairman of the municipality of the Bangaon Municipality and presently the administrator. The decision of the Municipality in proposing to cancel the enlistment was influenced by the very fact that the respondent no. 2 is not willing to allow the writ petitioners to continue his business in the suit premises as perceived by

the writ petitioner. The relationship between the appellants are not in dispute. That the one is in a position to influence the decision of the other cannot also be doubted. The letter of 26th February, 2020 is something more than it meets the eyes which read with the other circumstantial evidence on record does not completely rub out the possibility of the involvement of the appellant no.1. In such a conspectus, the petitioners being in a helpless condition approached the police authorities with a complaint that on the instigation of the appellant no.1, appellant no.2 influenced the authorities concerned to disconnect the electricity connection and the water connections. That the appellant no.2 is in exercise of its position and power issued such directions is beyond any hypothesis as he was the chairperson of the municipality. The supply of water and electricity are essential supplies to which a tenant is entitled unless evicted by the due process of law.

It is true that in a dispute relating to electricity and water between a landlord and tenant there are appropriate authorities under the relevant statute to whom such disputes are to be referred and decided. But having regard to the pandemic situation existing all over where the authorities are not functioning regularly or not at all the fate of a tenant who had genuine grievances against the supply of water and electricity cannot be easily brushed aside. The law cannot be a lame duck. It has to rise to occasion when calls for. Both the appellants have fairly submitted that in the event, the appellant applied and a far separate ferrule or a dedicated

line of water supply to the portion under his occupation they would not stand in the way. On such consideration, we dispose of the appeal and the application by permitting the writ petitioners to have a dedicated water supply to the portion of the premises under its occupation as also separate electricity meter without any let or hindrance caused by the appellants.

The entire exercise should be completed within a period of four weeks from date. The writ petitioners shall apply for a fresh electricity connection from the Electricity Distribution Company operating in the area within one week from date along with all requisite fees and in the event such application is made the Electricity Distribution Company shall within a fortnight shall provide a separate electric meter to the writ petitioners. Similarly, if an application is filed with the municipality, it shall be the obligation of the municipality to ensure supply of water to the premises in question as under the relevant provisions of the Bengal Municipal Act it is the responsibility of the municipality to supply water to the households.

So long the municipality is unable to provide separate water connection to the premises in question the supply of water as ensured to the appellants by the order dated 18th August, 2020 shall continue.

However, we make it clear that the petitioners should be entitled to uninterrupted water and electricity supply at the tenanted premises. Insofar as the involvement of the police authorities are concerned, we only record that unless the

complaint is made with regard to disruption of supply of water and electricity as the case may be there shall be no need of the officer-in-charge of the appropriate police station to visit the premises in question. However, any complaint, if made, shall be properly attended to and the police authorities shall discharge their duties in accordance with law.

The order of the learned Single Judge is modified to the aforesaid extent.

The appeal and the connected applications are disposed of.

(Soumen Sen, J.)

(Saugata Bhattacharyya, J.)