

25.11.2020
Item No.4
srm

**W.P.A. No. 7023 of 2020
(CAN 1 of 2020)**

(Via Video Conference)

Md. Osman

Vs.

**The Chief Engineer (Distribution), West Bengal State
Electricity Distribution Co. Ltd. & Ors.**

Mr. Subhajit Chowdhury

...for the Petitioner.

Mr. Debjit Mukherjee

...for the WBSEDCL.

Mr. Soumyajit Bhatta

...for the Respondent No.5.

The writ petition is taken up for hearing through video conferencing in view of the urgency.

The application being CAN 1 of 2020 is disposed of.

The petitioner has filed this application being a tenant of a premises in respect of which an ejectment suit being Ejectment Suit No.41 of 2010 has been pending. Although it is the contention of the petitioner that the Ejectment Suit No.44 of 2010 is pending, the petitioner has failed to produce any document with regard to the suit as directed by this Court. Thus, the contention of the petitioner with regard to the number of the ejectment suit is not accepted.

According to the petitioner, he being a tenant under the respondent No.5 and an occupier of the

premises, electricity connection ought to be provided as per law.

According to the learned Advocate for the respondent No.5, the petitioner has not complied with the order dated May 16, 2016 passed by the learned Civil Judge (Junior Division), 4th Court at Sealdah with regard to the deposit of rent and as such the petitioner was not entitled to any relief.

Mr. Mukherjee, learned Advocate appearing on behalf of the West Bengal State Electricity Distribution Company Limited, submits that the distribution company had visited the premises in order to effect connection to the petitioner but the employees of the distribution company faced obstructions from the landlord.

It is an admitted position that electricity is an essential service. There are a catena of decisions by the Hon'ble Division Benches of this Court and the Hon'ble Apex Court that an occupier of a premises was entitled to electricity. The fact that an ejectment suit is pending at the instance of the landlord supports the contention of the petitioner to be a tenant in respect of the premises in question. However, the contention of the petitioner with regard to the payment of rent is not relevant for the purpose of disposal of the application. The contention of the respondent No.5 with regard to the non-compliance of the order for deposit of rent is a

matter to be decided in the suit and the landlord can take the benefit of such non-deposit as per law.

This Court directs the distribution company to effect connection to the petitioner within a period of two weeks from the date of compliance of all formalities by the petitioner. The landlord has undertaken through his learned Advocate that no objection will be raised.

It is made clear that the electricity connection shall be subject to final outcome of the suit. This Court has not made any observation with regard to the merits of the suit. The landlord will be at liberty to raise the issue of non-deposit of rent and consequent striking off the defence of the petitioner as per law and in terms of the judgment of the Hon'ble Apex Court in this regard. The petitioner cannot claim any equity on the basis of the connection given to the petitioner.

The writ petition is, thus, disposed of.

There will be however no order as to costs.

The parties shall act in terms of a copy of this order downloaded from the official website of this Court.

(Shampa Sarkar, J.)