

04.10.2021
Sl. No.04
Mithun
Ct.No.08

WP 13245 of 2021
(Via Video Conference)

Smt.Oli Bhattacharya
Vs.
The State of West Bengal & Ors.

Mr. Supriyo Chattopadhyay
... for the Petitioner

Mr. Debanjan Mukherjee,
...for respondent .

Mr. Jahar Lal Dey,
Mr. Amrita Lal Chatterjee,
...for the State.

The writ petitioner alleged inaction on part of the Police authority being respondent nos. 2 to 4 and is seeking direction upon the respondent authority in particular the respondent no. 4 to act in accordance with law against the private respondent no. 6 who is creating unlawful disturbances to the petitioner in the smooth running of the shop room establishment of the petitioner.

The claim of the petitioner is that he is the owner of the shop room and electricity connection of the said shop has been disrupted due to Amphan Cyclone as a result the petitioner is not in a position to run the business.

It is submitted on behalf of the private respondent no. 6 that the petitioner is not the owner of the shop room and has raised objection against electricity connection to the said shop room.

On behalf of the respondent no. 5 District CESC Howrah Regional Officer, it is submitted that the electric meter is already installed at the premises for the supply of electricity to the shop room but due to the Amphan Cyclone there may be disruption in the internal wiring which is required to be repaired by the petitioner himself and then the electricity supply stand started. It is also pointed out that there is a long standing dispute between the petitioner and the respondent no. 6 and because of this dispute the internal wiring is not being repaired. But there is no inaction on behalf of the CESC department.

I have heard learned counsel for the parties.

There appears an arguable case because insofar as the title and possession in respect of the said premises. It is reflected from the record that meter is installed at the premises for supply of the electricity and the electric bill has also been deposited by the petitioner and the electric meter stands in the name of petitioner since 2016.

On behalf of the respondent no. 4 the Officer-in-charge has submitted the report to the effect that there

is a long standing dispute between the petitioner namely, Smt. Oli Bhattacharya and Tapan Samanta respondent no. 6 over the issue of providing electric connection inside the shop room premises where the petitioner has been carrying on the business of grocery item and has trade license from the Howrah Municipal Corporation at the said shop room situated at Premises No.62/5, Andul Road, PS-A.J.C. Bose B.Garden, Howrah-711109. During enquiry it has been transpired that the dispute between the petitioner and the Private Respondent No.6 relates to dispute in respect of a vacant shop measuring about 243 sq.ft at Premises No.62/5, Andul Road, P.S.-A.J.C. Bose B.Garden, Howrah-711109. It is pointed out that the dispute is purely civil in nature. In this regard the Private Respondent No.6 filed a civil suit bearing title suit no.329/2021 before the Ld.Civil Judge (Sr.Divn), 3rd Court, Howrah and Ld. Court passed an ad-interim order of injunction on 19.06.2021 directing both the parties to maintain status-quo in respect of said shop room till 09.07.2021.

On 20.07.2021 the petitioner submitted a written petition against Private Respondent No.6 in reference to A.J.C. Bose B.Garden PS Part-IV No.205/21 Dated. 21.07.2021 and SI Sushanta Kumar Koley of A.J.C. Bose B.Garden PS, enquired into the matter locally and it was found that over the said property related issue, a

hot altercation took place between the petitioner and the Private Respondent No.6. So to maintain peace, SI Sushanta Kumar Koley of A.J.C. Bose B. Garden PS submitted a prosecution report vide A.J.C. Bose B.Garden PS NCR No.231 Dated 04.08.2021 u/s 107 Cr.P.C. against Private Respondent No.6 to maintain peace in the locality.

During enquiry it was further found that the petitioner used separate meter for her shop. CESC official was also contacted in respect of Electric Connection to the said shop room and it was learnt that as ad-interim injunction was passed by the Ld. Court over the said premises, CESC cannot do any work without permission of Ld. Court over the suit premises.

Accordingly, it is submitted on behalf of the respondent no. 4 that the allegation of the petitioner against police authority for inaction is inconsistent.

Having heard and considered the material placed on record, I am of the view that dispute between the petitioner and the respondent No.6 can be decided according to the evidence to be adduced by the parties to the Title Suit No.329 of 2021 wherein an order of status quo with regard to the possession, nature, character and with regard to alienation in respect of the suit property as on the date on 19.06.2021 to 09.07.2021 has been passed.

It appears from the order that the plaintiff of the said suit being respondent No.6 herein had entered into an unregistered agreement for grant of permanent lease for 999 years with the defendant No.1, the petitioner herein on 19.03.2008 and earnest money was paid and the balance was to be paid within 29.04.2008.

Thus, documents annexed to the writ application reflect that petitioner had the electricity meter and electricity energy supplied to his premises but because of the Amphan cyclone, internal wiring has been disrupted which needs to be repaired at the cost of the petitioner himself but for the alleged obstruction by the respondent No.6, it could not be repaired due to dispute before the Trial Court.

It appears from the report submitted by the Officer-in-charge, the shop room is stated to be a vacant shop room but admittedly the petitioner is prima facie the owner, otherwise the plaintiff/respondent No.6 could not have entered into an unregistered agreement with the defendant No.1, the petitioner herein for perpetual lease.

It is well settled principle of law that water and electricity are integral part of right to life as enshrined in Article 21 of the Constitution of India and section 42 of Electricity Act, 2003 provisioned as statutory duty on the distribution licensee to provide electricity connection

to the applicant within one month on receipt of application seeking electricity connection.

So, in my view the denial to render electric supply would tantamount to infringement of right to life in violation of the tenet of Article 21 of the Constitution of India.

Therefore, the petitioner is allowed to repair the internal wiring and the respondent no. 4 Officer-in-Charge of the concerned Police Station is directed to render all possible assistance to the petitioner in carrying out the repair of the internal wiring at the premises and then the CESC/respondent no. 5 is directed to restore the electricity connection without any delay. However, I make it clear that the petitioner would not seek any equity out of this order. The Civil Court would decide the suit on the evidence to be adduced by the parties to the suit.

For the reasons aforesaid, the writ application being WP 13245 of 2021 is decided and disposed of in terms of the above direction, however, without any order as to cost.

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

(Shivakant Prasad J)