

21.03.2022
Sl. No. 20
ss

W.P.A. 1236 of 2022

Mohammed Zafar
Vs.
The State of West Bengal & ors.

Mr. Jaydeep Biswas
Mr. Soumyadeep Das
Mr. Kaushik Ghosh
... for the petitioner

Mr. A. K. Guha
Mr. Jayak Gupta
... for the State

Mr. Sandip Banerjee
Mr. Ankit Surekha
... for the H.M.C.

Affidavit of service is taken on record. It appears that the postal articles sent to the respondent nos.5 and 9 have been returned with the endorsement 'refused' and 'insufficient address', respectively.

It is contended that the respondent no.9, and the petitioner resides in the same premises and the respondent No.9 intentionally avoided service and got the endorsement 'insufficient address' written, by influencing the postal peon.

The allegation of the petitioner is that the landlord being the respondent no.9 refused to grant water connection to the petitioner.

Reliance is placed on a tenancy agreement and clauses 5, 11 and 12 thereof. The said clauses impose a duty on the landlord/owner to draw waterline upto

the main kitchen or privy from the water tank and thereafter the tenant was liable to bear his own cost and expenses for drawing a line to the individual flat. It also appears that the landlord was liable to provide tap water to the tenant three times a day.

The allegations are that these clauses have not been fulfilled by the landlord and as such, the petitioner approached the Corporation for grant of new water connection.

It is an admitted position that the Corporation can only provide water connection upto the main point. Mr. Banerjee learned Advocate for the Municipal Corporation, relies on Section 136 of the Howrah Municipal Corporation Act, 1980, which may be put to use under certain circumstances.

It appears that a suit has been filed by the petitioner for declaration and injunction before the learned Civil Judge, Junior Division, 2nd Court at Howrah being Title Suit No.946 of 2019.

Irrespective of the steps the petitioner may take with regard to supply of water connection in the suit or before the rent controller, the Commissioner or his delegatee of the Corporation shall dispose of the representation of the petitioner dated December 27, 2021 in accordance with law. Whether section 136 of the Howrah Municipal Corporation Act, 1980 shall be applicable, is left open to be decided by the

Corporation. The petitioner as also the respondent no.9 shall be heard. A reasoned order should be passed and communicated to the petitioner as also to the respondent no.9, within a period of six weeks from the date of communication of this order. The Corporation shall take into consideration the factual issues and the law in this regard, keeping in mind that the right to such water supply is equivalent to Right to Life. No person should be deprived of such essential services. In any event, such decision shall not prejudice the civil suit. Needless to mention, if such water connection is permitted by the Corporation, the petitioner shall bear the expenses and shall not claim any equity. This order shall not be construed as an observation that the petitioner is either an occupier or a tenant in respect of the premises. Whether the petitioner is in occupation will also be decided by the Corporation, upon inspection of the premises in the presence of the parties. The writ petition is disposed of in the absence of the respondent No.9, as the court has relegated the dispute to the Corporation, with a direction that the respondent No.9 must be heard.

The writ petition is, thus, disposed of.

There shall be no order as costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)