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C.O. 970 of 2022

**Md. Alamgir
Vs
Md. Naushad**

Mr. Md. Nurezaman,
Mr. Jahangir Badsha, ... For the petitioner.

Mr. Milan Nandi, ... For the opposite party.

The subject matter of challenge in this revisional application is against an order dated 21st March, 2022 passed by learned Judge, II Bench, Presidency Small Causes Court, Calcutta in Ejectment Suit No. 221 of 2010 directing petitioner to restore the electricity supply to the suit premises.

As per submission disclosed by the learned advocate for the petitioner, the suit has already been set for ex parte hearing due to the non-appearance of the defendant/opposite party.

It is suddenly on 21st March, 2022, defendant appeared and filed three petitions, under Section 151 of the CPC, one of which is relatable to a prayer for restoration of electricity, what was alleged to have been disconnected.

It is thus contended that no steps have been taken by the opposite party/defendant for vacating the order setting the suit for ex parte hearing and written statement has not been accepted due to its belated filing.

Per contra, learned advocate for the opposite party/caveator/defendant submits that defendant has been sought to be evicted from the suit premises mentioned in the schedule to the plaint.

While making elaboration of objection, raised in this case, learned advocate for the opposite party contends that a trespasser may even enjoy electricity in respect of the property under his possession, until evicted under due process of law.

Having considered the submission of both sides and upon perusal of the impugned order, it appears that restoration of electricity was ordered for emergent circumstances surfaced over there, as disclosed in the impugned order.

When opposite party has been proposed to be evicted from the suit premises, in whatever status he may be, there should not be any dispute with regard to supply and enjoyment of electricity in respect of the suit shop room, still under possession of petitioner/defendant, until he is evicted under the law.

The impugned order is thus modified, directing petitioner to restore electricity to opposite party in respect of suit shop room, and no other portion beyond the said shop room. Other portion of order will however, remain unchanged.

As regards the placement of the meter,

petitioner would be at his liberty to seek appropriate direction from the Court below.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)