

24.02.2022
Ct. 21
D/L 18
ab

C.O. 1040 of 2021
(Via Video Conference)

Smt. Bimala Sarkar
-Vs-
Arup Kumar Ghosh

Mr. Sukanta Chakraborty,
Mr. Anindya Halder,

... for the petitioner

Mr. Sukanta Chakraborty, learned advocate
appears for the petitioner.

The learned advocate for the petitioner files two
affidavit of service. Let the same be kept with the
record.

No one appears from the side of the opposite
party/defendant.

The revisional application is taken up for hearing.

The present application is at the instance of the
plaintiff/landlord/petitioner being aggrieved by the
order dated 22.01.2021 passed by the learned Civil
Judge (Junior Division), 2nd Court, Sealdah, South 24
Parganas in Title Suit No. 79 of 1999 whereby the
learned Court below has permitted the tenant/opposite
party herein to use water coming from the overhead
tank which has been installed by the plaintiff/petitioner

herein by removing all kinds of obstruction and has permitted the tenant/opposite party to install a new pipe-line from the overhead tank(reservoir) into his occupied portion at his own cost.

It has been contended by the learned advocate for the petitioner that defendant/tenant in his application dated 16.09.2019 has not prayed for taking water from the overhead tank rather he has prayed that he may be permitted to draw water directly from the underground water reservoir by operating water pump at his own cost and by laying supply line from the underground water reservoir to his tenanted premises at his own cost.

The learned Court below having passed the order impugned inconsistent with the prayer made by the defendant/tenant, is bad in law and is liable to be set aside.

Water is essential for survival of the human being. Supply of water to the tenanted premises is an essential service and which landlord cannot curtail. A tenant cannot be deprived of free water supply to his tenanted premises provided the premise has both underground and overhead water reservoirs facilities.

It is a matter of common knowledge a premise having underground water reservoir indicates the water coming from the source first goes to underground reservoir and thereafter the water is pumped to the

overhead tank as because the force of supply is not strong enough to go directly to the overhead tank.

Apparently, the order impugned shows that the learned Court has not passed the order in favour of the tenant/defendant in the form as prayed by the defendant/tenant.

Since the tenant/defendant is the best person, who can say how he would be able to enjoy the free supply of water in his tenanted premises. That as per the prayer of the defendant/tenant, he wanted to take water directly from the underground reservoir by laying pipe-line but at present, it is seen that there exist a overhead tank.

This Court is of the view that if the defendant/tenant is allowed to take direct connection from the underground water reservoir by installing his own pump, situation may arise that no water may remain in the underground water reservoir for supply to the overhead tank for the use of the other residents in the said premises if the tenant pumps whatever water the underground reservoir may receive from source and tenant may also have to install a water reservoir tank within the tenanted premises.

Therefore, this Court is of the view that the learned Court below has rightly held that the defendant/tenant should not be allowed to take water

directly from underground water reservoir but he should be supplied water from the overhead tank.

Further, this Court is of the view if the existing water pipe-line to the tenanted premises of the defendant is old, blocked and not in working condition, then the defendant/tenant should be allowed to install new pipe-line from the overhead tank to his occupied portion at his own cost. The order impugned is modified only to this extent.

With the above observations, the revisional application being **C.O. 1040 of 2021** is disposed of.

Connected application, if any, shall also stand disposed of.

Interim order, if any, stand discharged.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, be applied for, be given to the parties, upon compliance of all formalities.

(**Kesang Doma Bhutia, J.**)