

**MAT 981 of 2019
with
CAN 1 of 2019 (Old No. CAN 7077 of 2019)**

**[Dr. Madhurima Bhowmik (Dey) & Anr.
Vs. M/s. N. G. Variety Stores & Ors.]**

Ms. Shraboni Sarkar

....For the applicants/appellants

Mr. Somnath Ghoshal

Mr. Satyajit Senapati

.... For the respondent no. 1

Dr. Madhusudan Saha Roy

**.... For the respondent nos. 2
& 3/CESC**

Mr. Bipin Ghosh

..... For the State

Re: CAN 1 of 2019 (Old No. CAN 7077 of 2019)

Affidavit-of-service filed by the applicants be kept on record.

Records reveal that a writ petition being W.P. No. 8713 (W) of 2019 was preferred by M/s. N. G. Variety Stores/writ petitioner for issuance of necessary direction upon CESC to grant electricity connection. The said writ petition was disposed of by an order dated 20th June, 2019 directing CESC to install a new meter and grant electricity connection to the writ petitioner at premises no. 2, Panchanantala Road, Howrah (hereinafter referred to as the said property). In the writ petition, one of the co-owners of the said property namely, Smt. Tarunima Ghosh, was impleaded as a party respondent.

Ms. Sarkar, learned advocate appearing for the applicants submits that the applicants are the co-owners of the said property and as such, they ought to have been impleaded in the writ petition. Suppressing material facts and behind their back, the writ petitioner obtained the order dated 20th June, 2019 which adversely affects their rights and as such they may be granted leave to prefer appeal against the said order dated 20th June, 2019.

The fact that the applicants herein are the co-owners of the said property has not been disputed by the learned advocates appearing for M/s. N. G. Variety Stores and the CESC.

In view thereof, we allow the application being CAN 7077 of 2019 granting leave to the applicants to prefer the appeal against the order dated 20th June, 2019.

Office

Office is directed to formally register the appeal.

Re: CAN 7078 of 2019

The applicants/appellants have preferred the present application being CAN 7078 of 2019 for appropriate order.

Ms. Sarkar submits that the appellants along with the respondent no. 6 are the co-owners and are in occupation of the said property. The installation of electric meter in the name of M/s. N. G. Variety Stores over the said property, as directed by the learned single

Judge, adversely affects the appellants' right, title, interest and possession over the said property.

The learned advocate appearing for the writ petitioner submits that the order impugned in the present appeal has already been complied with and electric connection has been granted to the writ petitioner upon installation of a new electric meter at the common place where there are other existing electric meters of the owners and occupants of the said property.

Dr. Saha Roy, learned advocate appearing for the CESC denies and disputes the contention of the appellants and submits that in compliance with the order 20th June, 2019, electricity connection has already been granted.

It is well settled that a person in occupation is free to apply for supply of electricity without the consent of the owners of the same and is entitled to get electricity and enjoy the same until he is evicted by due process of law. However, grant of such electricity connection will not confer any right or equity in favour of the occupier to defeat the title of the lawful owners. [See the judgment delivered in the case of ***Abhimanyu Mazumdar Vs. The Superintending Engineer & Anr. : AIR 2011 Calcutta 64***].

The order impugned in the present appeal is clarified only to the effect that the grant of such electricity connection would not create any right or

interest in favour of M/s. N. G. Variety Stores over the said property.

The appeal being MAT 981 of 2019 and the connected application for appropriate orders being CAN 7078 of 2019 are, accordingly, disposed of.

There shall, however, be no order as to costs.

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

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)