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gd/ssd

FMA/220/2022  
IA NO: CAN/1/2021  
RAMA KANTA PRASAD GUPTA  
VS  
CALCUTTA ELECTRICITY SUPPLY  
CORPORATION LTD. AND ORS.  
(Through Video Conference)

Mr. Bidyut Kr. Halder,  
Mr. Indranil Halder  
..for the Appellant

Mr. Suman Ghosh  
..for CESC

This appeal is at the instance of the respondent no.2 in WPA 13428 of 2021 which has been disposed of by the learned Single Judge by order dated 09.11.2021 issuing a direction to the respondent no.1/Electric Supply Company to hold inspection of the tenanted premises and to give electricity connection by way of a new electricity meter in the name of the writ petitioner by following all legal formalities.

The record reflects that the writ petitioner had approached the learned Single Judge seeking a direction to the respondent no.1 to provide the electricity connection in her premises. The writ petitioner is the tenant of the respondent no.2 and was deprived of the electricity on account of ongoing dispute.

In the said background the learned Single Judge

has issued the impugned direction.

Submission of learned counsel for the appellant is that the writ petitioner is the person responsible for habitual pilferage of electricity and that the respondent no.1 ought to have waited for hearing of this appeal but in the meanwhile yesterday the order of the learned Single Judge has wrongly been complied with and in that process the electricity meter of the appellant has been thrown on the ground.

Learned counsel for the respondent no.1 has submitted that an inspection of the premises was carried out in which it was found that the writ petitioner was occupying the premises and was not having the electricity connection, therefore, she was found to be entitled to the electricity connection and that while providing the electricity connection to the writ petitioner in pursuance to the order of the learned Single Judge, no padlock has been broken by the respondent no.1 and the allegation of the appellant that his meter has been thrown on the ground is also incorrect. He submits that both the writ petitioner as well as the appellant are now getting the electricity supply.

Having heard the learned counsel for the parties and perusal of the record, we find that there is a dispute going on between the appellant and the writ

petitioner. The appellant has filed the eviction suit against the writ petitioner whereas the writ petitioner has filed the title suit against the appellant and in the light of the said dispute between the parties, the writ petitioner was deprived of the electricity connection. Hence, the learned Single Judge had initially called for the report which revealed that the writ petitioner had applied for electricity connection and the CESC authorities were not permitted to carry out the inspection. It was also found that the application for electricity connection was made by the writ petitioner and the writ petitioner was also depositing rent with the Rent Controller. The learned Single Judge has noted the order of the trial court whereby the appellant herein and his man and agent were directed not to disturb the peaceful possession of the writ petitioner and also restrained from dispossessing without adopting due process of law.

In the aforesaid background, the learned Single Judge has rightly found that in terms of Section 43 of the Electricity Act the writ petitioner was entitled to the electricity connection, hence, the requisite direction in the impugned order has been issued.

So far as the grievance of the appellant in respect of throwing his electricity meter on the ground during the course of compliance the order of the learned Single

Judge is concerned such an allegation based upon the subsequent event will not effect the validity or correctness of the order of the learned Single Judge. If the appellant has any such grievance, he will be at liberty to take recourse to the appropriate proceedings in accordance with law.

In the aforesaid circumstances, we do not find any reason to interfere with the order of the learned Single Judge. The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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