

S/L. 9.
September 15, 2022.
MNS.

WPA No. 20459 of 2022

Asok Kumar Laha
Vs.
Calcutta Electric Supply Corporation
Limited and others

Mr. Udaynarayan Betal

... for the petitioner.

Dr. Madhusudan Saha Roy

...for the CESC Limited.

Mr. Aniruddha Mitra,
Mr. Abhishek Roy

...for the respondent no. 6.

Mr. Sarbananda Sanyal,
Mr. Kaustave Banerjee,
Mr. Supriyo Ghosh

...for the respondent no. 7.

Learned counsel for the petitioner contends that in an eviction suit filed by the private respondent no. 7 against the petitioner, bearing Title Suit No. 756 of 2018, the trial court has passed an *ex parte* injunction order restraining the plaintiff/private respondent no. 7 from creating any disturbance in the peaceful possession and running of business of the defendant/writ petitioner in the suit premises,

which is the location of the present dispute, till disposal of the suit.

However, when the CESC Limited personnel came to give a new electricity connection to the petitioner pursuant to the petitioner's application in that regard, the CESC Limited personnel were resisted by private respondent no. 7 and/or his men and agents from doing so.

Learned counsel appearing for the private respondent no. 7 submits that the said private respondent is the actual tenant in respect of the property-in-dispute. It is submitted that upon illegally ousting the private respondent no. 7, the petitioner has managed to enter into the property forcibly, for which an eviction suit, bearing Title Suit No. 756 of 2018, has been filed by the private respondent no. 7, which is pending before the Ninth Court of Civil Judge (Senior Division), Alipore, at present.

It is submitted that the injunction order obtained by the petitioner in the said suit was passed *ex parte* behind the back of the respondent no. 7.

Learned counsel appearing for the private respondent no. 6, that is, the owner of the

property, submits that respondent no. 7 is the existing tenant till now and has been paying rent at all material times before the Rent Controller. However, it is clarified by learned counsel for the respondent no. 6 that the said respondent/landlord contemplates filing a suit for eviction of the respondent no. 7 from the property. It is submitted that the rights of the landlord in such proposed suit and/or other litigation may not be affected by the electricity connection, if given in favour of the petitioner.

Upon a consideration of the materials annexed to the writ petition, it is evident that the Civil Court, vide order dated October 1, 2019 passed in Title Suit No. 756 of 2018, granted an injunction restraining the respondent no. 7 (plaintiff in the said suit) from causing any disturbance in the peaceful possession and running of business of the defendant/present writ petitioner in the premises-in-dispute.

Although the order was passed *ex parte*, that does not take away or curtail anything from the binding force of the said order in law.

That apart, it was recorded in the said order of the Civil Court that the plaintiff, that is, the respondent no. 7 did not appear or file written

objection even after receiving the copy of the injunction petition.

Be that as it may, the injunction order finds *prima facie* possession to be in favour of the petitioner.

As such, even without going into the merits or demerits of the case of the respondent no. 7 and/or the writ petitioner in the pending suit and/or the right, title and interest of the landlord/respondent no. 6 in the property, the ends of justice would be subserved if the CESC Limited gives electricity connection to the petitioner pursuant to the petitioner's application, subject to compliance of all necessary formalities by the petitioner, as expeditiously as possible, preferably within a fortnight from this date and/or from the date of compliance of formalities, whichever is later.

In the event the CESC Limited personnel face any obstruction from the private respondents and/or their men and agents in giving such connection to the petitioner, it will be open to the CESC Limited to approach the respondent no. 5 for adequate police assistance.

If so approached, the Inspector-in-Charge, Rabindra Sarobar Police Station, shall

give such assistance, at the cost of the petitioner, for the CESC Limited personnel to install the new electricity connection in the premises-in-question in favour of the petitioner.

It is made clear that in the event any padlock or other hindrance is put up by the private respondents in the way of access of the CESC Limited personnel to the existing meter board position, it will be open to the police authorities to break open the padlock and/or remove such hindrance for the limited purpose of giving access to the CESC Limited personnel for giving such connection.

It is made clear that nothing in this order and/or the electricity connection to be given to the petitioner shall create any special right, equity and/or interest in favour of the petitioner, either to the detriment of the interests of the private respondent nos. 6 and 7 or otherwise.

Since no affidavits were invited from any of the respondents, it is deemed that the respondents have not admitted any of the allegations made in the writ petition.

The parties shall act on the written communication of the learned Advocate for the petitioner, accompanied by a server copy of this

order, without insisting upon prior production of a certified copy thereof.

With the aforesaid directions, WPA No. 20459 of 2022 is disposed of accordingly.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)