

28.04.2022
Item No.02
Court No.32
Avijit Mitra

MAT 2018 of 2016
with
IA No. CAN 1 of 2017 (Old No.CAN 2135 of 2017)
with
IA No. CAN 2 of 2017 (Old No.CAN 2138 of 2017)

Rajib Das & anr.
- Versus -
West Bengal State Electricity
Distribution Company Limited & ors.

Mr. Khairul Alam

....for the appellants

Ms. Sima Sengupta

...for the Respondent nos.1 and 2

Affidavit of service filed by the appellants be
kept on record.

Mr. Alam, learned advocate appearing for the
appellants is granted leave to amend the cause title
of the memorandum of appeal by incorporating the
names of the respondent nos. 3, 4 and 9 as
impleaded in W.P. No.10853 (W) of 2016.

As we have invited Mr. Alam to advance his
arguments on merits of the appeal, the delay in
preferring the appeal is condoned and the
application for condonation of delay being IA No.
CAN 1 of 2017 (Old No.CAN 2135 of 2017) is
allowed.

The present appeal has been preferred challenging an order dated 26th July, 2016 passed in WP No.10853 (W) of 2016.

Mr. Alam submits that the impugned order has been passed by the learned Single Judge being oblivious of the fact that no agreement was executed by the appellants herein with the writ petitioner and no common passage was identified for drawing wires to effect electricity connection to the writ petitioner's premises.

He argues that while passing the impugned order, the learned Single Judge erroneously observed that an agreement between the parties was recorded in the order dated 17th December, 2013 passed in the earlier writ petition.

According to him, in the absence of identification of any passage, the learned Single Judge ought not to have directed the licensee to effect electricity connection in favour of the writ petitioner with police help.

Ms. Sengupta, learned advocate appearing for the licensee submits that pursuant to the order dated 17th December, 2013 passed in an earlier writ petition being WP No.19844 (W) of 2013, in which the present appellants were parties, a common passage was identified in presence of both the parties.

Answering our query, she submits that the order impugned in the present appeal has already been complied with and electricity connection has been effected in favour of the writ petitioner.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that the order dated 17th July, 2013 in WP No.19844 (W) of 2013 was passed in the presence of the learned advocates appearing for the respective parties including the appellants herein and in the same it was specifically recorded that an agreement for supplying electricity to the writ petitioner's premises was arrived at and a common passage was identified over which the electricity wires and other installation may be drawn.

Admittedly, the appellants thereafter did not approach the learned Court which passed that order alleging any erroneous incorporation of facts. The order impugned in the present appeal has already been complied with and electricity connection has been effected.

The learned Single Judge, in our opinion had rightly observed that if an agreement had been recorded by the Court, the same is to be taken as validly made between the parties.

The order impugned is a reasoned one and we do not find any infirmity in the same.

For the reasons discussed above, the present appeal being MAT 2018 of 2016 and the stay application being IA No. CAN 2 of 2017 (Old No. CAN 2138 of 2017) are dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Sugato Majumdar, J.) (Tapabrata Chakraborty, J.)