

ORDER SHEET

WPO/938/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

JAWAID HUSSAIN
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : April 25, 2022.

Appearance:

Mr. Anupam Dasadhikari, Adv.

Mr. Krishnendu Pal Chowdhury, Adv.

Dr. Madhusudan Saha Roy, Adv.

Mr. Alok Kr. Ghose, Adv.

Mr. Fazlul Haque, Adv.

Md. Farhaduddin, Adv.

Mrs. Sipra Majumdar, Adv.

Ms. Debarati Sen (Bose), Adv.

The Court: Learned counsel for the petitioner contends that the petitioner's electricity supply in respect of the building in dispute, where the petitioner is in occupation of an eatery on the ground floor as well as an accommodation on first floor, was disconnected by the CESC Limited on the ground that the building was in a dilapidated condition.

From the reports submitted by the KMC, CESC, the State and respondent no. 10, it is evident that the condition of the building is still dilapidated.

Although the petitioner has a right to apply afresh for restoration of electricity connection in the event appropriate repair/ renovation works are carried out to the building, the same, as it stands now, does not justify the restoration of the electric connection of the petitioner, since the same would unnecessarily create fire and electrical hazards for all residents and for the neighbourhood as well. However, although in respect of the occupation of the petitioner in respect of the ground floor, the report of the CESC says that the petitioner was not found in occupation, such finding cannot be sacrosanct and this Court ought not to proceed on the premises of such finding in the report of the CESC to conclusively decide possession.

Be that as it may, the question of whether the petitioner is in occupation/ legal occupation in respect of premises in question cannot be the subject matter of adjudication in a writ petition, where the scope of adducing evidence is minimal. The appropriate forum for deciding such issue and the entitlements of the petitioner in respect of the premises is the competent Civil Court having jurisdiction in the matter.

Be that as it may, since under Section 43, if the petitioner is entitled to establish his prima facie possession in respect of the premises, the petitioner is entitled to get electricity supply, which is, of course, circumscribed by the ground realities, it will be open to the petitioner to apply afresh for reconnection in the event the building in question is repaired/ renovated in accordance with law to the satisfaction of the KMC and the CESC authorities insofar as the apprehension of consequent hazards is concerned.

WPO No. 938 of 2022 is disposed of in the light of the above observations. However, it is made clear that unless the premises are repaired/ renovated in accordance with law to the satisfaction of the KMC and the CESC authorities as well as the fire service and other authorities, from whom permission is required in accordance with law, no electric connection shall be given to the petitioner to the said premises at present.

The allegations made in the reports filed in Court as well as the writ petition are deemed not to have been admitted by the parties other than the parties who are the respective authors of such allegations, in view of no affidavit having been invited in the matter.

No order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

sg.