

OD-2

ORDER SHEET

WPO/525/2019

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

NARESH KUMAR CHOWDHARY
VERSUS
THE COMMISSIONER OF POLICE, KOLKATA AND 4 ORS.

BEFORE:
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 26th August, 2022.

Appearance:
Mr. Partha Chakraborty, Adv.
Mr. Narendra Prasad Gupta, Adv.
Ms. Monica Roy, Adv.
Ms. Sharmistha China, Adv.
...for the Petitioner

The Court: Affidavit-of service filed today, is taken on record.

The writ petitioner claims to be a sub-tenant in respect of premises no. 6A, 'Ezra Mansion', 10, Government Place (East), Kolkata-700 069. A number of civil suits were filed between the landlord and tenants. Some of such was decreed and culminated into an execution proceeding. In such an execution proceeding, the petitioner claiming to be a sub-tenant applied under Order XXI Rule 99 of the Code of Civil Procedure to set up its right

and claim opposed to the said decree. Another civil suit is also pending. The petitioner in this writ petition claims that because of the hindrance created and still are being created by the private respondents/superior landlord, the CESC authority could not install the electricity meter applied for by the writ petitioner to which the writ petitioner is legally entitled. Relying upon **Annexure-R1** to the affidavit-in-opposition filed by the State affirmed on December 3, 2019, the petitioner submits that electricity meters were also stolen from the subject premises. The relevant electricity company, namely, CESC Limited lodged a complaint in this regard before the jurisdictional police station.

Annexure-P-27 to the writ petition is a complaint case bearing no. C/20/19 initiated by the writ petitioner under Section 156(3) of the Code of Criminal Procedure read with the various provisions under the Indian Penal Code, in which an order was passed by the Ld. Chief Metropolitan Magistrate on February 11, 2019, allowing such application filed under Section 156(3) Cr.P.C.

Following the direction of the Chief Metropolitan Magistrate, the First Information Report was registered by the jurisdictional police station on March 8, 2019, **Annexure-P-30** to the writ petition. The First Information Report was registered as FIR No. 70 of 2019. The petitioner now claims that despite his FIR being registered and several complaints being lodged by and

on behalf of the petitioner, the police authority has failed and neglected to take steps in accordance with law.

The State is not represented when the matter was taken up for hearing. The private respondents are also not represented.

Upon hearing the submissions made by Mr. Partha Chakraborty, learned counsel appearing for the petitioner and on close scrutiny of the materials on record, it appears to this Court that, the cause of action arising out of which the police complaint was made and FIR was lodged pertains to basically a landlord-tenant dispute arising out of the subject premises at which the petitioner seeks to receive electricity connection from CESC Limited. The petitioner claims to be a lawful, bona fide, valid sub-tenant and occupier in the premises. As discussed above, one of the civil suits had already been decreed and another is pending. In the decreed suit, the petitioner also applied under Order XXI Rule 99 of the Code of Civil Procedure in the pending execution case to resist the decree. The petitioner also filed an application under Section 151 of the Code of Civil Procedure. To obtain a connection for electricity is definitely a right of an individual, as the same was claimed by the writ petitioner, provided he is otherwise entitled to receive such connection strictly in accordance with law from the relevant electricity company. The police authority has got nothing to do with it. From ***Annexure R-1*** to the affidavit-in-opposition, it shows that CESC Limited has

lodged its police complaint for theft of its meter, since an electricity meter is the property of the electricity company and not of any individual.

Since pursuant to the direction of the Jurisdictional Magistrate passed on February 11, 2019, the Police Authority had already registered F.I.R. No.70 of 2019, this order shall not preclude the Police Authority to take further steps as expeditiously as possible and to come to a logical arrival thereunder strictly in accordance with law.

In view of the above discussions and reasons, this writ petition, **WPO/525/2019** stands dismissed.

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

(ANIRUDDHA ROY, J.)

sg.