

ORDER SHEET

WPO/2523/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

THE NAWN ESTATE PVT LTD. AND ANR
VS
THE CALCUTTA ELECTRIC SUPPLY CORPORATION LTD. AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : December 13, 2022.

Appearance:

Mr. Pranit Bag, Adv.
Mr. Rhiddhiman Mukherjee, Adv.
Mr. Manish Shukla, Adv.
...for the petitioners

Dr. Madhusudan Saha Roy, Adv.
...for CESC Ltd.

Mr. Amitesh Banerjee, Sr. Standing Counsel
Ms. Ipsita Banerjee, Adv.
...for the State

Mr. Siddhartha Banerjee, Adv.
Ms. Jyoti Routh, Adv.
Ms. Shreyashi Maity, Adv.
Mr. Rajib Mullick, Adv.
...for respondent no.10

The Court: Affidavit of service filed in Court today be kept on record.

Learned Counsel for the petitioner contends that the petitioners, being the owners of a multi-storied building where there was a fire accident and subsequently electricity had to be disconnected, have objection to such connection being restored.

The primary ground of such objection is that the building is in an extremely dilapidated condition and in the event the electricity connection is

restored, there may be severe accidents resulting in the loss of life and property.

Learned Counsel places reliance on a report by a purported expert in support of such contention.

It is further contended that although a co-ordinate Bench of this Court, in a previous order, had dispensed with the signature of the owners for giving such reconnection to the premises, the petitioners/owners are apprehensive that they will be held liable within the contemplation of Section 32 of the West Bengal Fire Services Act, 1950, which stipulates that the owner or occupier of building or premises is to compensate any person affected by the fire.

Learned Counsel appearing for the CESC Limited submits that, subject to reports as regards the condition of the building coming and compliance of other due formalities, as indicated by the previous orders of this Court, the CESC Limited has no objection to restore such electricity supply.

Learned Counsel for the private respondents stands by the submission of the said private respondents in their previous writ petitions.

Upon hearing learned Counsel and perusing the previous orders of this Court, it is glaring that the present writ petition has been filed with the *mala fide* attempt to stall the restoration of electricity supply to the private respondents/tenants' association.

Although the signature of the owners has already been dispensed with by Court, the petitioner has now taken up the ruse of apprehended prosecution under Section 32 of the 1950 Act.

However, Section 32 categorically provides that whenever, on enquiry into an accident of fire by the District Magistrate or by the Committee specially constituted, it is established that the incident of fire was due to willful default or negligence on the part of the owner or occupier of any building or premises, only then such owner or occupier shall be liable to compensate persons affected by the fire.

As such, the said provision does not discriminate between an owner and an occupier, that too, only if guilty of willful default or negligence, inasmuch as the liability to pay compensation is concerned.

Hence, it clearly appears that the petitioner owner is trying to cover up its guilt by obviating the restoration of electricity supply to the premises.

The present writ petition, as such, is patently *mala fide*. Hence, WPO/2523/2022 is dismissed with costs of Rs.50, 000/- to be paid by the petitioners to the private respondents within a fortnight from the date.

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

(SABYASACHI BHATTACHARYYA, J.)