

June 7, 2023
Sl. No.25
Court No.19
s.biswas

CO 1675 of 2023

Mukul Roy and others
vs.
Maniklal Chowdhury

Ms. Shohini Chakraborty
Ms. Prajaaini Das

... for the petitioners

The court does not find any reason to interfere with the order impugned, inasmuch as, there is nothing on record to show that the CESC authorities had gone for site inspection and for installation of the meter with prior intimation to the police. Whether the opposite party obstructed the CESC authorities in presence of the police is also not on record.

The petitioners submit that on two occasions the opposite party obstructed the CESC authorities from installing the meter. The suit should be dismissed for non-compliance of the order of the court.

The learned court below upon observing the facts, refused to dismiss the suit on the grounds made out by the petitioners.

However, the learned court below directed the Officer-in-Charge, Garfa Police Station to ensure that the order no.70 dated November 13, 2018 was complied with. By the order dated November 13,

2018, the court directed the plaintiff/opposite party not to create any obstruction during installation of the electric meter.

This court does not find any error in the order impugned. The learned Civil Judge (Junior Division), 1st Court, Alipore, rightly held that the suit should not be dismissed for non-compliance, by invoking the inherent power under Section 151 of the Code of Civil Procedure, in the facts of the case. This court is of the view that the decision of such nature would be harsh and would have very serious implications. Moreover, such order dismissing the suit is passed under different circumstances. This court finds that the learned court had already directed the Officer-in-Charge, Garfa Police Station to ensure that the CESC authorities are not obstructed. Such order must be complied with and the police authorities are bound by the order.

The revisional application is thus disposed of. The petitioners are always at liberty to approach the CESC authorities for installation of the meter in terms of the order passed by the learned Civil Judge (Junior Division), 1st Court at Alipore, with police help. If the police authorities fail to comply, steps may be taken in accordance with law by the learned court below, upon the petitioner approaching the court.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)