

25th September,
2023
(AK)
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W.P.A 16646 of 2023

Subir Pal
Vs.
CESC Limited and others

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
Ms. Neha Singh

...for the petitioners.

Mr. Srijan Nayak

...for the CESC Limited.

Mr. Sanjib Seth

...for the respondent no. 4.

1. Learned counsel for the petitioner submits that the petitioner is a tenant in respect of the disputed property. However, his electricity connection was cut off by the CESC Limited without giving any notice to the petitioner.
2. Learned counsel for the CESC Limited places reliance on the affidavit-in-opposition filed by the CESC Limited and submits that an eviction decree was passed at the behest of the private respondent/landlord against the petitioner.
3. Pursuant to the said decree, the Bailiff has given possession to the private respondent. A Bailiff's report is also relied on by the CESC Limited.
4. Learned counsel for the private respondent also corroborates the contention of the CESC Limited and

submits that the executing court has itself recorded that the execution case is disposed of with full satisfaction.

5. Learned counsel for the petitioner seeks to argue that the petitioner is in possession of premises no.3/3/1, Ramkrishna Mandir Path, Howrah, whereas the decree was obtained in respect of 3/3.

6. However, the private respondent as well as the CESC Limited point out that the electricity connection was obtained by the petitioner and was standing in the name of the petitioner in respect of premises no.3/3 and not 3/3/1.

7. It transpires from the records that the petitioner's electricity connection which has now been severed stood at premises no.3/3, Ramkrishna Mandir Path, Howrah. Although the petitioner seeks to argue that the present number of the portion of the petitioner is premises no. 3/3/1, I find that there is nothing on record to justify such claim.

8. In fact, the eviction decree was obtained against the petitioner by the private respondent in due course of law. As per the direction of a competent civil court, the execution took place and the Bailiff filed a report, showing dispossession of the petitioner from the premises.

9. Although the person from whom such possession was taken is not the petitioner, he can be deemed to be an agent of the petitioner and the same is a proper

dispossession/eviction in due course of law in terms of the relevant legal provisions.

10. Moreover, since the executing court itself has recorded vide order dated September 26, 2022 that the Bailiff submitted his report and from the same it appears that the writ of possession was executed and the execution case was disposed of with full satisfaction, there is no scope of reopening the same by the writ court.

11. Hence, the petitioner having failed to prove that the petitioner is in settled occupation of the property, the petitioner is not entitled to get electricity connection.

12. By the same logic, the CESC Limited was justified in disconnecting the electricity supply in respect of premises where the petitioner is no longer in possession.

13. Hence, WPA 16646 of 2023 is dismissed without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)