

D/L. 16.
January 9, 2023.
MNS.

WPA No. 28188 of 2022

Md. Tajuddin
Vs.
The CESC Limited and others

Mr. Biswadeb Roychowdhury
... for the petitioner.

Mr. Uday Sankar Bhattacharya
...for the CESC Limited.

Md. Abu Siddique Mallik
...for the respondent nos. 5 and 6.

Ms. Piyali Sengupta,
Ms. Rupsha Chakraborty
...for the State.

Learned counsel for the petitioner contends that the petitioner has obtained an order of injunction in connection with a civil suit, restraining the private respondents from disturbing the petitioner's possession with regard to the property-in-question.

However, the CESC Limited, despite having been so applied for, is not giving new electricity connection to the petitioner at the said premises.

Learned counsel for the private respondents as well as the CESC Limited submit that a subsequent injunction order was obtained by the private respondents in the present writ

petition, restraining the CESC Limited and its men and agents from installing new electricity meter in the name of the present writ petitioner (defendant no. 1), in the same property.

Although learned counsel for the petitioner submits that the subsequent injunction order was obtained by suppression of the prior injunction order obtained by the petitioner, until and unless the petitioner challenges the subsequent injunction order obtained by the private respondents successfully, there is no scope of the writ court interfering with the veracity and legality of the subsequent injunction order passed by a competent civil court.

As compared between each other, the injunction order obtained by the petitioner is for protecting the purported peaceful possession of the petitioner in respect of the property, whereas the injunction order subsequently obtained by the private respondents specifically restrains the CESC Limited from installing a new electricity meter to the writ petitioner, which is akin to the prayer made in the present writ petition.

In the teeth of the subsequent injunction order and during subsistence of the same, there

is no scope of the writ Court interfering with the jurisdiction of the Civil Court.

Thus, there is no scope of directing the CESC Limited at this juncture to give electricity connection to the petitioner in view of the order passed subsequently by a civil court, which stands in the way.

Hence, WPA No. 28188 of 2022 is disposed of by granting liberty to the petitioner to challenge before an appropriate forum the subsequent order of injunction restraining the CESC Limited from giving electricity connection to the petitioner, which has been obtained by the private respondents, that is, the order dated December 16, 2022 passed by the Civil Judge(Junior Division), Second Court at Alipore, District South 24 Parganas in Title Suit No. 1924 of 2022.

It is made clear that the merits of the contentions of the parties with regard to the illegality of the injunction orders have not been gone into by this court. It will be open to the parties to urge the same before a competent civil court/appellate court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)