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08.02.2023
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**In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri**

C.O No. 88 of 2022

**Smt. Puspa Modak
-Vs.-
Ajoy Modak**

Mr. Bhaskar Roy Mahashaya,
Mr. Deborshi Dhar
...for the petitioner

Mr. Narendra Nath Das,
Mr. Pragyadip Roy Basunia,
Mr. Pratyush Adhikary,
Ms. Binapani Singha
... for the opposite party

The present revisional application has been filed against an order whereby the trial court, in a suit for recovery of possession as well as injunction, has directed restoration of electricity connection of the defendant/opposite party. Initially an order of *status quo* with regard to the nature, character and possession of the property-in-question was passed by the trial court. Subsequently, however, the opposite party obtained an electricity connection from the W.B.S.E.D.C.L. to the property. It is submitted that such connection had been obtained without disclosing the subsistence of the *status quo* order.

Thereafter, on the prayer of the plaintiff/petitioner, the trial court directed

disconnection of the electricity supply, against which a revisional application under Article 227 of the Constitution of India was preferred by the opposite party before a coordinate Bench of this Court. While disposing of the said application, the coordinate Bench observed that since the next date of hearing before the trial court had been fixed on a particular date, the trial court was only directed to consider the prayer of the defendant for reconnection of electricity.

The defendant/opposite party subsequently filed an application for restoration of electricity connection, which has been allowed by the present impugned order.

Learned counsel appearing for the plaintiff/petitioner argues that the defendant/opposite party, in the first place, suppressed the subsistence of the *status quo* order passed by a civil court while taking the electricity connection. That apart, it is submitted that the order of restoration of electricity connection suffers from infirmity inasmuch the trial court virtually recalled its own previous order by which disconnection was directed.

Learned counsel appearing for the opposite party controverts the allegation that electricity connection was taken on suppression of the

status quo order. It is contended that the electricity was given to the suit property prior to the passing of the *status quo* order and, as such, there was no scope of suppression.

Even without going into the factual question whether the electricity was given to the suit premises before or after passing of the *status quo* order, a perusal of the status quo order in its proper perspective discloses that the same pertains to the nature, character and possession with regard to the property. The trial court, while passing the *status quo* order initially, did not arrive at any specific finding as to who was in possession of the property and kept the said question open for being decided in the suit. However, mere grant of electricity connection cannot *ipso facto* be construed as disturbing the nature, character or possession of a property.

In any event, it is well-settled that existence of electricity connection shall not by itself create any special right or equity in favour of the persons enjoying such electricity connection, as the Distribution Licensee is not the competent authority to decide the right, title or interest of the parties.

In such view of the matter and since electricity connection is a basic necessity of life,

this Court is not inclined to interfere with the impugned order of reconnection.

Accordingly, C.O No. 88 of 2022 is disposed of without interfering with the impugned order but with the observation that the electricity connection being enjoyed by the defendant/opposite party shall be without prejudice to the rights and contentions of the parties in the suit and that no special right or equity shall be created in favour of the defendant merely by virtue of such electricity connection, if not otherwise enjoyed by the defendant/opposite party irrespective of getting such electricity connection.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)