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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/45/2023
IA NO.GA/1/2023
SHYAM KUMAR JAISWAL
-VS-
THE CESC LTD. AND OTHERS

BEFORE :
THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 7th June, 2023

Appearance :
Mr. Debanjan Mukherjee, Adv,
Mr. Aniruddha Ganguly, Adv.
....for the appellant.

The Court : This intra-Court appeal by the writ petitioner is directed against the order dated 14th March, 2023 in WPO/2569/2022. The grievance of the appellant/writ petitioner is that six electric meters have been installed in his premises, bearing premises no.81/1, Madan Mohan Burman Street, Kolkata 700007 and he has sought for a direction upon the CESC Ltd. to remove those meters other than the meter which has been installed for premises No.81/1, Madan Mohan Burman Street, Kolkata 700007 belonging to the appellant/writ petitioner. The learned writ court, in our view, has rightly dismissed the writ petition on the ground that the question as to whether two premises are structurally the same cannot be adjudicated in a writ petition without taking evidence. If according to the appellant/writ petitioner the meters cannot be installed in a portion of premises No.81/1, Madan Mohan Burman Street, Kolkata 700007, it is for the appellant/writ

petitioner to establish the same before the appropriate forum. In our prima facie view, the civil court would be the appropriate forum before which the appellant can establish his contention that the premises no.81/1, Madan Mohan Burman Street, Kolkata 700007 is a distinct premises and the place where the six meters have been installed is within premises no.81/1, Madan Mohan Burman Street, Kolkata 700007. Without resorting to such remedy, the appellant had approached the wrong forum by filing a writ petition. However, since matter relates to disputed questions of facts, the same cannot be adjudicated in a writ petition and if so advised the appellant is at liberty to approach the CESC Ltd. with documents of title and other documents to show that the area where the meters are installed are exclusively within premises No.81/1, Madan Mohan Burman Street, Kolkata 700007. If such request is made by the appellant, it is open for the respondent/CESC Ltd. to consider the same in accordance with law.

With the above observation, the appeal stands dismissed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)