

OD 17

WPO/2569/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHYAM KUMAR JAISWAL
VS
THE CESC LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 14th March, 2023.

Appearance:
Mr. Arup Krishna Das, Adv.
...for the petitioner

Mr. Debanjan Mukherjee, Adv.
...for the CESC Ltd.

Ms. Tanushree Dasgupta, Adv.
...for the respondent no.7

The Court: Learned counsel for the petitioner contends that six meters belonging to others than the petitioner have been installed at the premises of the petitioner, in a position where the meters of the petitioner are also installed.

It is submitted that the petitioner is the owner of 81/1, Madan Mohan Burman Street, Kolkata – 700 007, whereas the extra meters complained of cater to other premises.

Learned counsel submits that, as such, the CESC Ltd. is required to remove such meters by shifting them to other alternative premises. It is further

submitted that the CESC Ltd. has virtually admitted in its affidavit-in-opposition that there is a separate meter room for the premises no.81, which is a different premises according to learned counsel for the petitioner, where the extra meters can be shifted.

It is further submitted by learned counsel for the petitioner that the purported rent receipt annexed to the affidavit-in-opposition of the private respondent no.7 indicates that the said document was issued in respect of one premises no. '81-1' and not '81/1'.

Learned counsel appearing for the respondent no.7 submits that the rent bill itself is an indicator that the said respondent is also an occupant and tenant in respect of premises no. 81/1, Madan Mohan Burman Street. That apart, it is submitted that in view of the electricity meters having existed in the said location for quite some time, the petitioner cannot have those shifted to any other position at this juncture.

Learned counsel appearing for the CESC Ltd. submits that structurally, premises no.81 and 81/1 are the same premises. Moreover, by placing reliance on the affidavit-in-opposition filed by the CESC Ltd., it is contended that it is technically not feasible to shift only six of the meters existing at the said location to some other place. It is also submitted that the area concerned is a market place and the structures therein are very closely and densely situated, which obviates any scope of further shifting the meters to some other place.

It transpires from the submissions of the parties and the materials on record annexed to the pleadings that there is a dispute between the parties as regards whether premises no.81 and 81/1, Madan Mohan Burman Street, Kolkata – 700 007 are structurally the same premises and merely separate

assessee numbers having been allotted by the corporation or the same are distinct and different premises, even on a structural consideration.

The other objection taken by the petitioner is that the rent bill produced by the respondent no.7 pertains to a different premise than 81/1, which belongs to the petitioner.

However, from the documents on record, no case has been made out by any of the parties that there are separate premises, bearing Nos. 81-1 and 81/1 respectively, in the same neighbourhood. That apart, the technical question as to whether the two premises are structurally the same cannot be adjudicated within the scope of the present writ petition without taking any evidence. Further, such exercise would be meaningless for the present purpose, since the CESC Ltd. has placed a photograph on record by annexing the same to their affidavit-in-opposition which clearly shows that the existing meters, including the meters of the petitioner, are situated in a position which is exactly in the middle, between two visibly different premises.

In such view of the matter, it is beyond the scope of this Court to direct shifting of six meters in isolation from the existing location to other place, since it is said to be technically non-feasible by the distribution lessee itself. Also keeping in view the fact that the area is a market place, where the structures are densely situated, it would not be prudent to direct six of the meters to be isolated and shifted to some other position, which might create further hazards.

In such view of the matter, there is no scope of interference in the present writ petition.

Accordingly, WPO/2569/2022 is dismissed without any order as to costs.

However, it is made clear that the existence and location of the electricity meters in question shall not create any special right or equity in favour of any of the parties, unless such civil rights/interests are otherwise enjoyed by the various parties to the present writ petition, independently of the existence of such meters.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)