

OD-32 & S/L 1

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/364/2023
IA NO: GA/1/2023
VARUN PODDAR
VS
MANMOHAN HOSIERY
C E S C LIMITED & ORS.

APOT/375/2023
VARUN PODDAR
VS
MANMOHAN HOSIERY
C E S C LIMITED & ORS.

BEFORE :

THE HON'BLE Chief JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 18TH November, 2023

Appearance :
Mr. Rajarshi Dutta, Adv.
Mr. D. Basu, Adv.
...for appellant
Ms. Poulami Dutta, Adv.
...for respondent Manmohan Hosier

The Court : Since both the orders, which are interim in nature, have been passed in a writ petition, namely WPO 1589 of 2023, the present appeal APOT 364 of 2023 and the appeal being APOT 375 of 2023 appearing in the supplementary list today are taken up together.

We have heard learned Advocate Mr. Rajarshi Dutta, learned Advocate appearing on behalf of the appellant and Ms. Poulami Dutta, learned Advocate for the respondent.

The appellants in these appeals are the private respondents in WPO 1589 of 2023 and they are aggrieved by the interim directions given by the learned Single Bench dated 25th September, 2023 and 6th October, 2023. It is not in dispute that the orders which are impugned in these appeals have been given effect to and inspection has been conducted in terms of the directions issued therein. In terms of the direction issued therein, the CESC Limited has been directed to file a report which will be considered by the learned writ Court.

The grievance of the appellant before the Learned writ Court as well as before us is that the writ petitioner has not established any prima facie right to be entitled for electricity service connection to the said property. It appears that a suit has been filed by the appellant in which the writ petitioner is defendant and the suit is pending before the Civil Court.

In our view, at this stage of the matter it would not be appropriate for this Court to interfere into the interim directions which have been issued by the learned writ Court which are impugned in these appeals as the learned writ Court is yet to decide the rights of parties and all that has been done is to conduct an inspection which has been conducted and CESC Limited has been directed to file a report.

Therefore, we are of the view that the interest of the appellant will be sufficiently safeguarded if it is observed that the learned writ Court while taking a decision in the matter will hear out the appellant as regards its contention that

the writ petitioner has not made it a prima facie case that they are entitled for electricity service connection in the property in question.

Since affidavit in opposition has already been filed by the appellant in the writ petition, we have no doubt in our mind that the learned writ Court will adjudicate all issues in a comprehensive manner and thereafter take a decision in the writ petition.

With the above observation the aforesaid appeals stand disposed of.

The stay application being IA No: GA/1/2023 in APOT/364/2023 is also disposed of.

Affidavit of service filed be kept on record.

(T.S. SIVAGNANAM, C J.)

(HIRANMAY BHATTACHARYYA, J.)