

28.06.2024
Sl. No.13(DL)
srm

W.P.A. No. 7567 of 2024

Sri Subir Pal @ Paul

Versus

CESC Limited & Ors.

Mr. Bikash Shaw

...for the Petitioner.

Ms. Sreemoyee Mitra

...for the CESC Ltd.

1. Despite service, none appears on behalf of the respondent
No.3. Affidavit-of-service is taken on record.
2. The petitioner claims connection at holding/premises
No.3/3/1, Ramkrishna Mandir Path, Howrah. According
to the petitioner, the property in question at
holding/premises No.3/3, Ramkrishna Mandir Path
belonged to Sunil Kumar Paul, Samir Kumar Kundu @
Khagendra Nath Kundu, Sisir Kumar Kundu @ Hiralal
Kundu, Mihir Kumar Kundu, Sujit Kumar Kundu and
Smt. Susama Kundu, they were joint owners.
Subsequently, a partition deed was registered between
the owners. After partition, Samir Kumar Kundu and
four others became absolute owners in respect of 1 cottah
3 chittack of land and structure by jointly mutating their

names in the records of the Howrah Municipal Corporation. The said premises was allegedly renumbered as holding/premises No.3/3/1, Ramkrishna Mandir Path.

3. The petitioner submits that he is a tenant in respect of holding/premises No.3/3/1, Ramkrishna Mandir Path. The petitioner justifies such claim on the basis of the eviction notice issued by a learned Advocate Pankaj Kumar Dutta, asking the petitioner and other alleged tenants to quit and vacate the said premises. Such notice was issued on January 16, 2024.
4. The petitioner also relies upon an order of this Court by which the Howrah Municipal Corporation had been asked to inspect the premises in question in order to ascertain whether the petitioner had constructed any unauthorised structure or not. According to the petitioner, had the petitioner not been in physical possession, the question of the corporation causing an inspection to consider the allegation of unauthorised construction would not arise.
5. It is further contended by the petitioner that had the petitioner not been in possession, the eviction notice would not be served on behalf of Arka Kundu, Smt.

Chandra Kundu, Smt. Sunita Kundu, Smt. Poulomi Kundu, Souvick Kundu, Smt. Rama Kundu, Suhjit Kundu Kundu and Smt. Soumita Patra.

6. Learned Advocate for the CESC Ltd. submits that in an earlier round of litigation, the petitioner was denied any relief by a learned coordinate Bench on the ground that there was nothing on record which would show that the petitioner was at that time in possession of holding/premises No.3/3/1, Ramkrishna Mandir Path. His Lordship had also recorded that pursuant to an eviction decree the petitioner had been evicted from holding/premises No.3/3, Ramkrishna Mandir Path. Thus, it is contended by the CESC that unless the authorities are provided with definite information as to the separate existence of holding/premises No.3/3/1, Ramkrishna Mandir Path, of which the petitioner is an occupant, it would not be possible for the CESC authorities to grant connection. It is also contended that after the decree for eviction, possession has been handed over through the court bailiff.
7. Having considered the order of His Lordship and submissions of the parties and also documents annexed to the writ petition, this Court finds the following facts:

- (a) The fact that holding/ premises No.3/3/1, Ramkrishna Mandir Path was created out of the holding/premises No.3/3, Ramkrishna Mandir Path is available from the eviction notice given by the owners/landlords.
 - (b) The corporation was also asked to investigate as to whether the petitioner had made any unauthorised construction.
 - (c) The above two findings indicate that the petitioner is in possession and that he is a tenant in respect of holding/premises No.3/3/1, Ramkrishna Mandir Path and the landlord wants to evict him.
8. The earlier rejection of the writ petition would not affect the present prayer of the petitioner, if he seeks connection afresh in respect of the holding/premises No.3/3/1, Ramkrishna Mandir Path. If the petitioner approaches the authority with relevant documents and on inspection the authority finds that the petitioner is in possession, connection shall be given subject to the result of any eviction suit that may be filed or pending against him.
 9. Needless to mention, the other compliance would be necessary.
 10. However, the corporation will assist the CESC authorities to identity the property and at least give some

information as to whether holding/premises No.3/3/1, Ramkrishna Mandir Path had been separately created and name of the owners had been mutated in the corporation's record. On such information, the CESC authorities shall proceed in accordance with law. During inspection, the alleged landlords will be notified and they will be heard.

11. The entire exercise shall be completed within a period of four months from the date when the petitioner approaches the authority with all relevant documents.
12. The writ petition is, thus, disposed of.
13. There shall be no order as to costs.
14. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)