

Item No.23
28.06.2024
Court. No. 9
GB

W.P.A. 8459 of 2024

Sita Devi & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Dipankar Mandal

...for the Petitioners.

Mr. Debanjan Mukherjee

...for the CESC.

*Mr. Tapas Kumar Mandal,
Mr. Mritunjay Saha*

...for the Respondent No.6.

1. Paragraph 6 of the writ petition is quoted below:-

“Your petitioners state that after purchasing the said premises, the private respondent Aftab Alam firstly instituted a suit being Title Suit No.227 of 2016 against your petitioners before the Learned 2nd Civil Judge (Junior Division), Alipore, claiming that your petitioners are the tenants in respect of only 200 Square Feet of Factory Shed and praying for a decree of declaration and injunction and thereafter filed another suit being Title Suit No.92 of 2017 against your petitioners before the Learned 2nd Civil Judge (Junior Division), Alipore, for eviction of your petitioners from the said premises and thereafter again filed another suit being Title Suit No.799 of 2020 against your petitioners and some authorities before the Learned 2nd Civil Judge (Junior Division), Alipore, praying for a decree of declaration and injunction and during the pendency of the said suits, your petitioners were forcibly disposed from a portion of the Factory Shed which compel your petitioners to institute a suit being Title Suit No.1485 of 2023 against the private respondent Aftab Alam before the Learned 2nd Civil Judge (Senior Division), Alipore, praying for a decree of declaration and recovery of possession and the aforesaid four suits are all pending.”

2. On such averments, it is not possible for this Court to direct the CESC authorities to grant connection. Title Suit No.1485 of 2023 has been filed against the

respondent no.6 before the learned Civil Judge (Senior Division), 2nd Court at Alipore, for a declaration and recovery of possession. Apart from the said suit, three other suits are pending. The petitioners contend that dispossession from a portion of the factory shed resulted in filing of the suit but the petitioners are still in possession of a part thereof.

3. The learned advocate for the CESC submits that even if the petitioners are in possession of a part of a 200 Sq.ft factory shed, the authorities cannot affect connection on a part of the said factory shed.
4. The learned advocate for the respondent no.6 submits that the petitioner is not in possession of any portion of the factory premises. It is further contended that the West Bengal Pollution Control Board directed the CESC authority to disconnect the supply which the petitioners had been enjoying on the ground that they did not obtain a “no objection” from the pollution control board. The said fact has been suppressed in the writ petition.
5. It is submitted that the petitioners have now got the ‘no objection’ from the Pollution Control Board.
6. The problem which this Court faces in directing the CESC authority to effect connection, is the pendency of the four suits. The pleadings of the parties in the said suits create confusion with regard to the area under possession of the petitioners. Unless the petitioners are

admittedly in possession of the premises in question, the question of grant of electricity would not arise.

7. Under such circumstances, the writ petition is disposed of along with CAN 1 of 2024, granting liberty to the petitioners to approach the learned civil court with such prayer. The civil court will be in a better position to ascertain the actual facts and pass necessary orders. Needless to mention, if such prayer is allowed, the connection granted will be subject to the result of the suit.
8. Accordingly, the writ petition is disposed of.
9. However, there will be no order as to costs.
10. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)