

Court No. 9
(265711)

WPA 12197 of 2024

05.09.2024

(A 52)

(S. Banerjee)

Alok Paul

Vs.

Calcutta Electricity Supply Corporation Limited & Ors.

Mr. Bibek Dey

...for the petitioner

Dr. Madhusudan Saha Roy

...for the CESC

Ms. Mousumi Bhowal

...for the Dum Dum Municipality

Mr. Prosenjit Mukherjee

Mr. Jahangir Hossain

...for the respondent nos. 12 to 15

The petitioner is the landlord in respect of a premises which has been developed by the respondent nos. 12 to 15. Pursuant to an order passed in a writ petition at the instance of the petitioner, the Dum Dum Municipality had initiated a proceeding for demolition. The proceeding ended with the finding of deviation from the sanctioned plan and an area of approximately 2,500 square feet in the entire construction has been found to be unauthorized/contrary to the sanctioned plan. The petitioner has moved this Court alleging inaction on the part of the CESC authorities in disconnecting the supply. The petitioner submits that unless supply-line is disconnected, a demolition process cannot be initiated.

Learned advocate for the CESC Limited submits that the connection was granted pursuant to a direction of this Court in a writ petition filed by the respondent nos. 12 to 15. The municipality did not approach the CESC authorities for any assistance in this regard.

Mr. Mukherjee, learned advocate for the respondent nos. 12 to 15 submits that the order of demolition has been appealed from and is pending before the learned Civil Judge (Jr. Division), Bidhannagar. The injunction application has been heard and the order has not been passed. He further submits that the Regulations do not provide that disconnection is to be effected if there is any unauthorised construction.

The issue is not whether disconnection should be effected in respect of an unauthorized construction. The issue is more serious. It is about preventing electrocution and protecting the building from fire hazards, by implementing safety and security as provided under Section 53 of the Indian Electricity Act. The municipality also found unauthorized construction in the building. If the municipality proceeds to demolish, the CESC will have to be involved to facilitate the process, as the supply line would be alive.

The order of this Court had permitted the municipality to initiate such proceedings. The persons responsible for the unauthorized construction have a right of appeal and they have availed of such right. Unless the appeal is decided, a direction upon the CESC authorities to disconnect the supply, would amount to prejudging the appeal by the writ Court. Moreover, any direction upon the CESC authorities at this stage would be premature as the result of the appeal is still awaited.

Under such circumstances, the writ petition is disposed of with a request upon the appellate Court, being Civil Judge (Jr. Division), Bidhannagar to dispose of the entire appeal within a period of four months. If the appeal goes against respondent nos. 12 to 15, needless to mention that the municipality will take steps and in the process shall request the CESC authorities for their action, support and assistance in this regard.

CESC authorities shall render all assistance.

Needless to mention that the merits of the appeal has not been decided by this Court.

With the above observation and direction, the writ petition is disposed of.

(Shampa Sarkar, J.)