

AD-13
Ct No.09
11.03.2024
TN

WPA No. 25490 of 2023

Dilip Singh @ Dilip Kumar Singh and another
Vs.
The Calcutta Electricity Supply Company Limited
and others

Mr. Arnab Saha

.... for the petitioners

Dr. Madhusudan Saha Roy

.... for the CESC Limited

- 1.** Affidavits in opposition and reply filed today be kept on record.
- 2.** From the affidavit-in-opposition, the position is crystal clear that the notice of hearing on the provisional order of assessment was given to the petitioner. Not only that, the representative of the petitioner no. 1 who was authorized duly to represent the petitioner no. 1 was present at the time of hearing. At pages 26 and page 27 of the affidavit-in-opposition, the respective signatures of the representative of the petitioner no.1 in the visitor's slip and the authorization letter of the petitioner no. 1 to the representative of the petitioner no.1 have been annexed.
- 3.** In the visitor's slip, as the consumer's name, the name of petitioner no. 2 also appears.
- 4.** From the documents annexed it is clear that the notice of hearing was sent at the petitioner's address which is

the self-same address where the petitioners received the final order of assessment and tallies with that as given in the cause title of the writ petition.

5. Thus, it is evident that the petitioners got ample notice of hearing on the provisional order of assessment, only after which the petitioners, having been given opportunity of hearing, the final order of assessment was passed. Since the final order of assessment was passed long back prior to the filing of the writ petition, the only premise of entertaining the writ petition despite availability of an appeal by way of Section 127 of the Electricity Act, 2003 was that the petitioners had not got an opportunity of hearing on the provisional order of assessment and that the doctrine of *audi alteram partem* had been contravened.
6. On a thorough perusal of the affidavit-in-opposition and the reply, I am convinced that the said premise does not exist at all. Rather, the petitioners, it is evident, sought to mislead the court by giving an impression that they did not have an opportunity of hearing on the provisional order of assessment. In view of such falsity, the writ petition cannot but be dismissed with costs.
7. Accordingly, WPA No. 25490 of 2023 is dismissed on contest with costs of Rs. 20,000/- to be paid by the petitioners to the respondent-authorities within a fortnight from date.

- 8.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)