

Item No. 18
02.02.2024
Court. No. 19
GB

C.O. 4493 of 2023

Shyam Sundar Ghosh
Vs.
Sri Mahadeb Ghosh & Ors.

*Mr. Sounak Bhattacharya,
Mr. Sounak Mondal,
Mr. Abhirup Halder*

...for the Petitioner.

*Mr. Samrat Chowdhury,
Ms. Reema Coomar*

...for the Opposite Parties.

Mr. Madhusudan Saha Roy

...for the W.B.S.E.D.C.L.

1. The order impugned before this Court is the order dated November 20, 2023 passed by the learned Civil Judge (Junior Division), 1st Court at Barasat, District – 24 Parganas (North) in Title Suit No.216 of 2021.

2. The learned court directed disconnection of the supply given by the West Bengal State Electricity Distribution Company Limited and further directed the Officer-in-Charge, Shasan Police Station to ensure the order of ad interim injunction dated March 10, 2021 was complied with, in its letter and spirit.

3. Mr. Bhattacharya, learned advocate appearing on behalf of the defendant submits that the order impugned suffers from the following irregularities:-

- a) The application for new connection had been filed much before the order of injunction.
- b) The direction for disconnection during the pendency of an application under Order 39

Rule 2A of the Code of Civil Procedure, was erroneous.

- c) Without the court coming to a finding that the order of injunction was violated, the punitive step of disconnecting the supply should not have been taken by the learned court.

4. The learned advocate for the plaintiff submits that without challenging the order of injunction or without praying for modification of the order, the petitioner could not have violated the order of ad interim injunction, thereby, allowing the electricity department to draw the connection through the 'B' schedule property.

5. The learned advocate for the West Bengal State Electricity Distribution Company Limited submits that the connection was admittedly given after the order of injunction was passed and admittedly through the 'B' schedule property. The distribution company was not aware about the order of injunction. As soon as the same was brought to their notice, disconnection had been effected.

6. It is true that electricity is essential for daily life. But it is also the settled proposition of law that the ad interim order of injunction passed by the court, restraining the defendant from drawing electric connection through the 'B' schedule property, was to be implemented. The contentions of the parties were recorded by the learned court below and the petitioner himself admitted that the connection was given after the order of injunction was passed.

7. Thus, the submission of Mr. Bhattacharya that the application for new connection had been filed long ago and the electricity department had given the connection on the basis of the said application in usual court of business, does not impress this Court. No interference with the order impugned, is called for. The petitioner was aware of the injunction. Either the petitioner ought to have prayed for modification or ought to have approached the authorities for an alternative route, but the petitioner could not have allowed such connection to be effected in the teeth of an injunction.

8. Orders of courts have to be complied with. Parties are bound by such orders and the courts should come down heavily on the offender, if it is found that its orders are disobeyed and flouted.

9. Under such circumstances, I do not find any reason to interfere with the order impugned.

10. Dismissal of this revisional application, will not preclude the defendant from approaching the learned trial court either for modification of the order or for an arrangement, so that electricity connection may be effected through an alternative route.

11. Accordingly, the revisional application is dismissed.

12. However, there will be no order as to costs.

13. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)