

OD 3

WPO/1726/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RAJEEV JHUNJHUNWALA
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 18th January, 2024.

Appearance:
Mr. Soumya Basu, Adv.
. . .for the petitioner.

Mr. Suman Ghosh, Adv.
. . .for the CESC Ltd.

The Court: The present challenge has been preferred by one Mr. Rajeev Jhunjhunwala who claims to be the owner of the disputed property. It is argued that without permission of the petitioner, electricity has been given to the private respondent one Afzal Ali, who does not have any locus standi to get such electricity connection at the premises.

A report is filed on behalf of the CESC Ltd. as per previous direction. Learned counsel for the CESC Ltd. points out by placing reliance on the allegations to the said report that a leave and licence agreement exists between one Pranay Jhunjhunwala who claims to be the owner of the property and the private respondent. That apart, a 'no objection' was also given by the said Pranay Jhunjhunwala in favour of grant of electricity to the private respondent.

The CESC Ltd., acting prima facie on the basis of such materials to ascertain possession, gave the electricity connection to the private respondent.

Learned counsel for the petitioner argues in reply that the petitioner, being the sole owner, never gave permission to any Pranay Jhunjhunwala for letting out or granting the property in lease and licence to a third party. Secondly, no permission was ever taken from the petitioner for getting the electricity connection. Thirdly, it is argued that it is transpires from the purported leave and licence agreement that the electricity was applied for by the private respondent on the verge of completion of the tenure of such purported leave and licence.

Be that as it may, since the dispute sought to be raised by the petitioner is clearly a civil dispute between the parties, the same cannot be resolved within the conspectus of the present writ petition.

The only charter of the distribution licensee is to ascertain whether prima facie the proposed applicant is in occupation of a property, and not to decide questions of title and other civil rights. The documents furnished sufficiently go on to indicate that prima facie possession has been established by the private respondent in so far as grant of electricity connection is concerned. The CESC Ltd. is not a civil court or an authority to adjudicate the title of parties and as such cannot be faulted for having given connection to the private respondent upon being prima facie satisfied of the latter's physical occupation of the property.

Accordingly, WPO 1726 of 2023 is disposed of without interfering with the grant of electricity to the private respondent but granting liberty to the present

petitioner to approach the competent Civil Court with the reliefs if any sought by the petitioner against the private respondent and/or the licensor of the private respondent regarding the disputed property.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

sp/