

26.06.2025
Item No.08
Court No.11
KCP

**FMA 222 of 2023
with
IA No.CAN 1 of 2023**

**Jainco Projects (India) Limited
- Versus -
Kuntal Mukherjee & ors.**

Mr. Jatinder Singh Dhatt
...for the appellant
Mr. Anupam Das Adhikary,
Mr. Pradeep Pandey,
Mr. Samik Sarkar
....for the respondent no.1

Mr. Dabanjan Mukherjee
....for the respondent no.4

The present appeal has been preferred challenging a judgment dated 4th January, 2023, passed by the learned single Judge in a writ petition being WPA No.9630 of 2022. By the said order, the learned single Judge directed restoration of electricity in favour of the writ petitioner/respondent no.1 herein observing, *inter alia*, that such restoration shall be subject to the decree of the learned Civil Court.

Drawing our attention to the contents of paragraph 12 of the judgment impugned, Mr. Dhatt, learned advocate appearing for the appellant submits that the learned single Judge erroneously observed that the registered lease deed executed on behalf of the appellant in favour of Sabala Surandhan Udyog Pvt. Ltd. (hereinafter referred to as the said Company) and the title deeds in favour of the appellant carry their '*own presumption of correctness*' failing to appreciate that the

said lease deed was executed during subsistence of an interim order of *status quo*.

Mr. Dhatt argues that in paragraph 22 of the judgment impugned, the learned single Judge arrived at an erroneous finding that there was no subsisting injunction against the respondent no.1, in his individual capacity and that the rigours of the injunction order had not been violated by granting electricity connection to the respondent no.1 earlier.

Mr. Dhatt submits that the learned single Judge delivered the impugned judgment being oblivious of the contents of the charge sheet filed in the criminal proceeding and erroneously observed on the basis of surmises and conjectures that the possession of the respondent no.1 in the concerned property cannot be ruled out.

Mr. Das Adhikary, learned advocate appearing for the respondent no.1 denies and disputes the contention of Mr. Dhatt and submits that the learned single Judge rightly directed restoration of electricity connection applying the ratio laid down in the Full Bench judgment of this Court delivered in the case of *Abhimanyu Mazumdar Vs. Superintending Engineer* reported in *AIR 2011 Cal 64*.

Answering our query, Mr. Mukherjee, learned advocate appearing for WBSEDCL submits that the judgment impugned has already been implemented and

electricity connection has been restored in favour of the respondent no.1.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It is well-settled that the contents of the judgment need to be read as a whole and not in isolation. A particular line cannot be taken up and highlighted. A perusal of the judgment would clearly reveal that in paragraph 30, the learned single Judge had categorically observed that the restoration of electricity connection shall not by itself create any special equity or right in favour of the writ petitioner and/or confer any such right which the writ petitioner otherwise does not have in law and that the Civil Court shall decide all issues pending before it independently, in accordance with law without being influenced by any of the observations made in the judgment. Accordingly, the observations made in paragraphs 12 and 22 of the judgment impugned shall have no bearing or binding effect upon the learned Civil Court.

With the above observations, the appeal and the connected applications are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)