

**MAT 715 of 2025**  
**with**  
**IA No. CAN 1 of 2025**  
(Sk. Arif Ali @ Arif Ali Vs. Subhash Ghosh & Ors.)

**Ms. Lakshmi Shaw**  
**Ms. Geetika Agarwal**  
**Ms. Anjali Shaw**

**..... For the appellant**

**Mr. Indrajit Biswas**  
**Sk. Samsul Arefin**  
**Mr. Rakesh Kr. Pandey**

**..... For the respondent no. 1**

**Mr. Suman Ghosh**

**..... For the CESC**

**Mr. Arindam Chattopadhyay**  
**Ms. Lipika Chatterjee**

**..... For the State**

The present appeal has been preferred by one Sk. Arif Ali @ Arif Ali challenging an order dated 2<sup>nd</sup> May, 2025 passed by the learned single Judge in a writ petition being WPA 2448 of 2025. Initially on 16<sup>th</sup> May, 2025, we passed a limited stay of the impugned order till 21<sup>st</sup> May, 2025. The said interim order was thereafter extended till 16<sup>th</sup> June, 2025 by an order dated 21<sup>st</sup> May, 2025. Subsequent thereto, an application has been filed by the writ petitioner/respondent no. 1 herein being IA No. CAN 2 of 2025 praying for recalling of the earlier orders dated 16<sup>th</sup> May, 2025 and 21<sup>st</sup> May, 2025. Considering the averments made in the said application and noting the fact that the writ petitioner/respondent no. 1 could not appear at the time of hearing, we recall the orders and with the consent of the parties the matter is taken up for

final hearing. The said application being IA No. CAN 2 of 2025 is disposed of.

Ms. Shaw, learned advocate appearing for the appellant submits that the order impugned in the present appeal was obtained upon suppression of material facts. It is not in dispute that the construction on the 4<sup>th</sup> and 5<sup>th</sup> floors of the building at premises no. 65, Sisir Bhaduri Sarani, Amherst Street, Kolkata – 700 006 (hereinafter referred to as the said premises) were unauthorized. The respondent no. 1 is also not in possession of the 4<sup>th</sup> floor. In spite of such fact he had applied for electricity connection in respect of the 4<sup>th</sup> floor. In fact, the entire 4<sup>th</sup> floor belongs to the appellant and in respect of a part of the said floor leave and license agreement has been executed by the appellant in favour of one Swapan Biswas. Such facts though urged, were glossed over by the learned single Judge and no finding was returned on the same prior to issuance of direction towards grant of electricity connection to the respondent no. 1 in the 4<sup>th</sup> floor. Such infirmity warrants interference of this Court.

She further submits that only with an intent to acquire a right in respect of a portion in the 4<sup>th</sup> floor of the building, the respondent no. 1 had applied for electricity connection though he is not in settled possession of the same. No direction towards grant of electricity ought to have been issued as the construction of 4<sup>th</sup> floor is unauthorized.

Mr. Biswas, learned advocate appearing for the writ petitioner/respondent no. 1, however, denies and disputes the contention of Ms. Shaw and submits that it is yet to be determined as to whether the 4<sup>th</sup> and 5<sup>th</sup> floors of the building situated at the said premises, are unauthorized.

Drawing our attention to an order dated 5<sup>th</sup> May, 2022 passed by a coordinate Bench of this Court in respect of the building situated at the said premises, Mr. Biswas submits that the issue of demolition has been relegated to the competent authority for consideration and no final decision has yet been taken. By the said order, the Court has also directed that till such exercise is complete, no coercive step will be taken by the Corporation in respect of the building in question. In the said conspectus and moreso when grant of electricity connection in favour of the respondent no. 1 would not create any right, title or interest in his favour, the learned single Judge had rightly directed the CESC authorities to grant electricity connection to the respondent no. 1, who is in occupation of the 4<sup>th</sup> floor of the said premises.

Mr. Ghosh, learned advocate appearing for the CESC authorities submits that said premises was inspected by the authorities pursuant to an application submitted by the respondent no.1 for grant of electricity connection in the 4<sup>th</sup> floor of the building at the said premises and it

was ascertained that the respondent no. 1 was residing in a portion of the 4<sup>th</sup> floor.

Answering our query Mr. Ghosh further submits that the respondent no. 1 has completed all formalities towards grant of such electricity connection and the same could not be effected due to the obstruction created by the other occupants in the said building.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It goes without saying that there is a dispute *inter se* the parties pertaining to right, title and interest in the said building. A person in settled position is entitled to get electricity connection under the provisions of the Electricity Act. Further the enjoyment of such electricity does not confer any right or equity in favour of a person in occupation to defeat the title of the lawful owner. [See the judgment delivered in the case of *Abhimanyu Mazumdar Vs. The Superintending Engineer & Anr.* reported in 2011 (2) CHN 768].

Ms. Shaw has strenuously argued that the 4<sup>th</sup> and 5<sup>th</sup> floors of the building in the said premises are unauthorized and that in such unauthorized portion no electricity connection can be given. However, records would reveal that the issue of demolition pertaining to the said floors is still under consideration of the competent authority as would be explicit from the order of the

coordinate Bench dated 8<sup>th</sup> May, 2022. In the said order the Court has also directed that no coercive steps measures would be taken in respect the building till a reasoned decision is taken by the Corporation as regards demolition. The supplementary affidavit as filed by the appellant be kept on record.

In the said conspectus and moreso when grant of electricity connection does not create any right, title or interest in favour of the person in occupation to defeat the title of the lawful owner, we are of the opinion that the learned single Judge rightly directed the authorities to grant electricity connection to the 4<sup>th</sup> floor of the building at the said premises in favour of the respondent no.1 with a specific clarification that *‘the grant of an electricity connection does not confer any right, title, or interest upon the petitioner with respect to the property, nor does it alter the legal status or character of the premises’*.

For the reasons discussed above, the appeal and the connected application are dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

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