

30.06.2025
Item No.15
Court No.11
Avijit Mitra

MAT 804 of 2025
with
IA No.CAN 1 of 2025
with
IA No.CAN 2 of 2025

Wahiduzzaman Ansari
- Versus -
Sarfaraz Alam & ors.

Mr. Supratick Syamal,
Mr. Gourab Ghosh
...for the applicant/appellant
Mr. Amitabrata Ray,
Mr. Debasish Basu
...for the State respondents
Mr. Debanjan Mukherjee
....for the respondent no.3
Mr. Tarun Kumar Das,
Mr. Dilip Kr. Shyamal,
Mr. Pratap Kumar Yadav
....for the respondent no.6

The present appeal has been preferred challenging an order dated 16th May, 2025 passed by the learned Single Judge in the writ petition being WPA 2753 of 2025. In connection with the present appeal, an application for leave to appeal being IA No.CAN 2 of 2025 and an application for appropriate order being IA No.CAN 1 of 2025 have been filed.

Records reveal that when the matter last appeared on 20th June, 2025 no one appeared on behalf of the writ petitioners/respondent nos. 1 & 2 and the CESC authorities and as such the

applicant/appellant was directed to intimate the said order to the learned advocates, who appeared on behalf of the writ petitioners and the CESC authorities before the learned Single Judge. Pursuant to such direction, service has been effected. Let the affidavit-of-service, as filed, be kept on record. In spite of service no one appears today on behalf of the writ petitioners being the respondent nos. 1 and 2 herein.

Mr. Syamal, learned advocate appearing for the applicant/appellant submits that the order dated 16th May, 2025 has been obtained by the writ petitioners/respondents suppressing material facts and without impleading the applicant/appellant to the writ petition. The writ petitioners were inducted as tenants in a shop room in a building situated at 1-50, Garden Reach Road, Kolkata-700024 (hereinafter referred to as the said building). Two title suits being T.S. no. 1067 of 2014 and T.S. No.876 of 2017 were initially preferred by the father of the applicant and after the concerned property was gifted to the applicant, he has impleaded himself in the said pending title suits. The learned Single Judge was misled to pass the impugned order as the applicant was not present to point out the correct facts.

As the applicant is the owner and the writ petitioners are tenants in the said building, the direction towards grant of electricity connection in favour of the tenants ought to have been issued upon hearing the applicants. In view thereof, we allow the application for leave to appeal being, CAN 2 of 2025 and take up the appeal for hearing.

Mr. Syamal submits that the writ petitioners are not in possession of the shop room since the year 2012 and they are admitted defaulters. Had such facts been brought to the notice of the learned single Judge, the order would have been otherwise. The learned single Judge had erroneously proceeded on the basis that the writ petitioners have '*established possession of the shop room in question*'. The said shop room is admittedly under lock and key and has not been opened since the year 2012 and that as such the writ petitioners are not in settled possession of the concerned shop room.

Mr. Mukherjee, learned advocate, who enters appearance today on behalf of the CESC authorities, submits that the order impugned in the present appeal has already been implemented and a meter has been installed in the meter room existing in the said building on 10th June, 2025.

Mr. Das, learned advocate enters appearance on behalf of the respondent no.6 and submits that the applicant/appellant is his son and that the concerned shop room is under lock and key since the year 2012.

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

The issue as to whether the writ petitioners are in possession of the concerned shop room is highly disputed and is pending adjudication in the title suits. The appellant had not been able to place before this Court any order passed by the learned Civil Court pertaining to the possession of the shop room and as such the fact that the writ petitioners are in possession of the concerned shop room cannot be totally ruled out.

In the said conspectus and as the order impugned in the present appeal has already been complied with through installation of a meter in the name of the respondent no.2 herein, no interference is called for in the present appeal. However, we make it clear that the grant of electricity connection and installation of the meter in the name of the respondent no.2 herein shall not by itself create any special equity or right in favour of the writ petitioners and/or confer any such right

which the writ petitioners otherwise do not have in law and that the learned 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 impugned order.

With the above observations, the appeal and the connected application for appropriate order 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.)