

28.04.2025

**Sl. No.43
Ct. No.15
Suman**

**WPA 18798 of 2023
With
CAN 2 of 2024
With
CAN 3 of 2024**

**Syed Abdul Rashid
Vs.
CESC Limited and Ors.**

Mr. Uddipan Banerjee
Mr. Subhrakanti Samanta
..for the petitioner

Mr. Bibek Jyoti Basu
Mr. Sandeep Prasad Shaw
Mr. Uttam Kumar De
Mr. S. Yunus
..for added respondent

Mr. Javed Sultan
Mr. Hare Krishna Halder
Mr. Koushik Bhattacharyya
..for the Intervenor/Mutawalli

Ms. Ashmita Chakraborty
..for the State

Mr. Debanjan Mukherjee
Mr. Aniruddha Ganguly
..for CESC

Mr. Shashwat Nayak
Mr. J. Saha
...for respondent no.6

Mr. S. P. Shaw
Mr. A. K. Singh
..for respondent no.5.

In Re: CAN 2 of 2024

The petitioner claims to be a tenant in respect of the premises no.24, Karaya Road, Kolkata-700 017.

In view of the facts involved in this writ petition, this Court is of the opinion that the applicant is a necessary party for the effective adjudication of the writ petition.

Accordingly, let the applicant be added as respondent no.7 in this writ petition.

CAN 2 of 2024 is allowed.

In Re: CAN 3 of 2024

This is an application for addition of a party at the instance of one Syed Imran Sher, who claims to be a Naib Muttawalli in respect of premises no. 24, Karaya Road, Kolkata-700017.

It is submitted that the property in question is a wakf property.

Having regard to the nature of the dispute involved, this application is allowed.

Let the applicant be added as respondent no. 8 to this writ petition.

Accordingly, CAN 3 of 2024 is allowed.

In Re: WPA 18798 of 2023

Although this writ petition was filed seeking an apparently innocuous prayer for an electricity connection on the ground floor of the premises no.24, Karaya Road, Kolkata-700017, during the course of the hearing, it has become apparent that the petition lacked bona fide.

The petitioner's prayer for the electricity connection has been objected to by respondent no. 5, who claims ownership of the property.

It is submitted on behalf of respondent no. 5 that his predecessor-in-interest purchased the property from an auction purchaser, who purchased the property in a sale proceeding conducted by the Kolkata Municipal Corporation.

It is further contended that the property was declared to be secular, and not wakf property, by a decree in O.S. No. 15 of 1960, passed by the Additional District Judge, Alipore, 24 Parganas. This decree was affirmed by the High Court in First Appeal No. 897 of 1961.

Respondent no. 5 also submits that an eviction suit has been initiated against the tenant, respondent no. 7, before the Civil Judge (Senior Division) at Sealdah, in Title Suit No. 176 of 1999, wherein an injunction was passed on August 5, 2024, restraining respondent no.7 from obtaining an electricity connection.

It is further alleged that the petitioner is in no way related to the premises and that the application for electricity connection has been filed with mala fide intent to create a semblance of interest in the property.

On behalf of respondent no. 8, it is submitted that the property is a wakf property, as declared in Title Suit No. 58 of 1963 by a decree dated April 6, 1972, passed by the Sub-Judge, Ninth Court, Alipore, which was affirmed by the Additional District Judge, Fifth Court, Alipore, by judgment and decree dated February 23, 1976.

It is suggested that the writ petitioner has been inducted as a tenant of the wakf property.

It is, however, not disputed that the decree of the Appellate Court has been challenged by way of a second appeal, which remains pending before the High Court.

The Officer-in-Charge of Beniapukur Police Station was directed to file a report.

The police report reveals that the petitioner, who seeks electricity connection for 24, Karaya Road, Kolkata-700017, is, in fact, the owner of the adjacent property at 23, Karaya Road, Kolkata-700017, and was not found to be in possession of the property in question.

It also appears from the orders passed in Title Suit No.176 of 1999 that respondent no.6 continues to remain as a tenant of the ground floor and has not surrendered his tenancy.

In light of the foregoing, this Court finds that the petitioner is not in possession of the relevant premises for which electricity connection has been sought. His alleged tenancy right is also open to serious doubt.

The question of whether the property is a wakf property or owned by respondent no. 5 need not be adjudicated at this stage.

Since the petitioner is not found to be in possession, no electricity connection is required to be granted on the basis of his alleged tenancy rights.

It is made clear that the dismissal of this writ petition shall not be construed as an adjudication in respect of the relevant property on the right, title, or interest of any of the parties involved.

Accordingly, WPA 18798 of 2023 is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)