

APO/126/2024
IA No.GA/1/2024

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

AMITAVA DE BHOWMICK AND ANR.

-VERSUS -

THE CALCUTTA ELECTRIC SUPPLY
CORPORATION LIMITED AND ORS.

BEFORE :
THE HON'BLE JUSTICE DEBANGSU BASAK
And
THE HON'BLE JUSTICE PRASENJIT BISWAS
Date : 29th July, 2025.

Appearance :

Mr. Abhimanyuu Banerjee, Adv.
Ms. Priyanka Yadav, Adv.
...for appellant.

Ms. Sipra Majumdar, Adv.
Ms. Somaxshree Dey, Adv.
...for the State.

Mr. Alak Kumar Ghosh, Adv.
Mr. Gopal Chandra Das, Adv.
...for the KMC.

Dr. Madhusudan Saharoy, Adv.
Mr. Debanjan Mukherjee, Adv.
...for the CESC.

The Court :- Appeal is at the behest of the writ petitioners and directed against an order dated November 25, 2024 passed in WPO/1007/2024.

Learned advocate appearing for the appellant submits that, under garb of laying down underground electric cables, the private respondents are claiming easement rights over a private passage belonging to the appellant

which they are not entitled. He points out that, the private respondent, subsequent to the order impugned filed a civil suit claiming easement right over such private passage.

Learned advocate for the appellant submits that, on a previous occasion, appellant filed a writ petition complaining that the private respondents were making unauthorised construction at premises no.52/1, Surendra Nath Banerjee Road, Kolkata- 700 014 and Kolkata Municipal Corporation (KMC) was not taking any steps with regard thereto. He draws the attention of the Court to the order passed in an appeal in respect of such writ petition.

Kolkata Municipal Corporation (KMC) and CESC Ltd. authorities are represented.

CESC authorities, in order to provide electric supply utilised a passage for laying down cables below the ground. Over such passage, the appellant before us claims exclusive right of user. There is also a civil suit pending with regard to the easementary right over such passage.

As a writ Court we need not enter into the claim and counter-claim as to right, title and interest with regard to the passage concerned. We are concerned with the right of certain person to receive electric supply. In order to facilitate such electric supply, CESC is required to take the cable underground through the passage concerned. CESC authorities did so.

In such circumstances, this laying of the cables through such passage, cannot be construed to create any equity or right, title and interest in respect of any private party other than what such private party already enjoys.

We clarify that we did not pronounce on the right, title and interest of the passage concerned, in any manner whatsoever.

We find no ground to interfere in the appeal.

APO/126/2024 along with the connected application are disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

(PRASENJIT BISWAS, J.)

A/s.