

**25.03.2026**  
Court No. 12  
Item No. 06  
**Sandip**

IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE

**M.A.T. 407 of 2026**  
**IA No : CAN 1 of 2026**

**Samir Ghosh**  
**-Versus-**

**Banshi Jana & Ors.**

Mr. Mahendra Prasad Gupta,  
Ms. Moumita Dhar,  
Ms. Muskaan Hossain,  
Ms. Tuhina Yasmin Tarafder  
.....for the appellant  
Mr. Debanjan Mukherjee  
.....for the CESC Ltd.  
Mr. Debarshi Brahma,  
Mr. Subarna Bank,  
Mr. Sayantan Maity  
.....for the private respondent.

- 1) The appeal is directed against an order dated February 18, 2026, passed by a learned single Judge, by which the CESC authorities were directed to grant new connection to the respondent no. 1 upon compliance of necessary formalities.
- 2) His Lordship recorded that the parties were asked to amicably settle their dispute, but no fruitful result was forth coming. Admittedly, an eviction suit was filed against the writ petitioner/respondent no. 1 by the appellant and the suit was dismissed. A second appeal is pending therefrom. The appellant had raised a

dispute with regard to non-payment of arrear rent and we find that His Lordship has also explored the possibility of settlement. However no such settlement had fructified. His Lordship was of the view that the electricity connection should be granted to the respondent no. 1 upon compliance of necessary formalities.

3) Mr. Gupta, learned advocate for the appellant submits that there are discrepancies with regard to holding number and the premises number. The respondent no. 1 was not in possession from 2002. The room was under lock and key. Section 43 of the Electricity Act, 2003 mandates only an occupier should get electricity.

4) Mr. Mukherjee, learned advocate for the CESC Limited submits that in the first round of litigation the respondent no. 1 had preferred a writ alleging inaction on the part of the CESC authority in granting electricity in respect of premises No. 34/14 (Part), Nabanaritala 1<sup>st</sup> Bye Lane, Post Office – Baksara. The writ petition was disposed of directing the respondent no. 1 to file an appropriate application in accordance with the provisions of law and comply with the formalities. Upon application being filed, the CESC authorities went to grant connection, but were resisted by the appellant.

5) The respondent no. 1 again filed a writ petition alleging inaction on the part of the CESC authorities. The appellant opposed such prayer by raising various objections. First that, an objection against grant of connection was pending. Secondly, there was mismatch in the

premises number and thirdly, the respondent no. 1 had failed to pay the arrear rents.

6) The writ Court recorded that the suit for eviction was dismissed. It appears that, an appeal therefrom was also dismissed and a second appeal is pending. Thus, the fact that the appellant treated the respondent no. 1 as a tenant of the premises in question is not in dispute. The question is whether the respondent no. 1 is still in possession of the premises or not.

7) The CESC authorities, upon making an enquiry found the appellant to be in possession. In any event it is for the licensee to decide whether the consumer or proposed consumer is entitled to electricity or not, and whether he is an occupier.

8) Under such circumstances, we are of the view that the order does not call for any interference. Needless to mention that, the CESC shall proceed in accordance with law. His Lordship had directed that connection should be given upon compliance of all formalities, which includes occupation of the premises in question.

9) Under such circumstances, it is made clear that the connection which is to be effected will be subject to the result of the second appeal.

10) However, it has been brought to our notice by the learned advocate for the respondent no. 1 that the second appeal has not been proceeded with and there are various defects which have not been cured.

11) Accordingly, M.A.T. 407 of 2026 and the connected application are disposed of.

12) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Shampa Sarkar, J.)**

**(Ajay Kumar Gupta, J.)**