

D/L
Item No. 34
13.01.2026
KOLE
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**MAT 1744 of 2025
With
IA CAN 1 of 2025
With
IA CAN 2 of 2025

Sri Saktipada Roy
-Vs.-
Sri Ram Gobinda Mukherjee & Ors.**

*Mr. Krishna Das Poddar,
Mr. Amit Kumar Dutta,*

...for the appellant.

*Mr. Mir Anuruzzaman,
Ms. Renuka Patrick,*

.... For the State.

Dictated by Arijit Banerjee, J:-

In Re: CAN 1 of 2025 in MAT 1744 of 2025:

This is an application for condonation of delay of 129 days in presenting the appeal as noted by the Additional Stamp Reporter.

Causes shown being sufficient, we condone the delay.

CAN No. 1 of 2025 is, thus, allowed.

In Re: MAT 1744 of 2025 and CAN 2 of 2025:

This appeal is directed against a judgment and order dated April 10, 2025, passed by a learned Judge of this Court in WPA 1308 of 2025 being a writ petition filed by the respondent no. 1 in this appeal. From the affidavit of service filed in court today it is not clear as to whether or not the respondent no. 1/writ petitioner has received notice of this appeal. However, in view of the fact that we are not inclined to entertain this appeal for the reasons recorded hereinafter, we do not deem it necessary to adjourn this matter.

The respondent no. 1 herein approached the learned Single Judge claiming to be tenant of a shop room under the appellant herein and seeking separate electricity connection for his medical shop.

The appellant herein submitted before the learned Single Judge that a suit for eviction is pending against the writ petitioner and hence, the writ petitioner's prayer should not be allowed.

Recording the above, the learned Judge disposed of the writ petition with the following observations and directions:-

"In light of the fact that the petitioner's settled possession over the relevant premises is not in dispute, I am of the view that the petitioner should be provided with an electricity connection, notwithstanding the dispute concerning his tenancy.

Accordingly, I direct the concerned Station Manager of WBSEDCL to provide a separate electricity connection in favour of the petitioner within a period of one month from the date of this order, subject to the petitioner's compliance with all necessary formalities.

Respondent no. 3 shall not insist on obtaining a wayleave from the petitioner. Respondent no. 3 may seek police assistance, at the petitioner's cost, for effecting the electricity supply at the petitioner's premises.

It is further clarified that the provision of the electricity connection shall not confer any equitable rights upon the petitioner, and this order is passed without prejudice to the rights and contentions of the parties in the pending civil suit".

Being aggrieved, the respondent no. 5 in the writ petition has come up by way of this appeal.

Learned Advocate for the appellant says that two suits were filed against the writ petitioner. One of the suits has been decreed by restraining the writ petitioner herein from constructing any shade on the disputed property or for using the same as car parking space. The other suit i.e., eviction suit is still pending and is at the argument stage. The writ petitioner is a rank trespasser. He should not be allowed to obtain separate electricity connection in his own name. Hence, the learned Single Judge erred in allowing the writ petition.

We do not find any merit in the submission made on behalf of the appellant. It is settled law that so long as a person is in actual possession of a property, he is entitled to the benefit of the essential services including electricity. The eviction suit against the writ petitioner has still not culminated in any decree. Even if an eviction decree is passed so long as the writ petitioner is not dispossessed of the property by execution of the decree, in our opinion, he will be entitled to enjoy electricity.

In view of the aforesaid, we do not find any infirmity in the order of the learned Single Judge.

The appeal and the connected application stand dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)