

(2010) 11 CAL CK 0008

Calcutta High Court

Case No: W P. No. 22750 (W) of 2010

Sanjoy Kumar Dutta

APPELLANT

Vs

The West Bengal Electricity
Distribution Co. Ltd. Ors.

RESPONDENT

Date of Decision: Nov. 24, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: AIR 2011 Cal 151

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Kajal Ray, for the Appellant; Mihir Kundu, for Distribution Company, Suman Basu, for Corporation, Asit Baran Routh and Asit Chaudhury, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Jayanta Kumar Biswas, J.

The petitioner in this Art. 226 petition dated October 6, 2010 is seeking the following principal relief:--

(a) A writ of Or in the nature of mandamus commanding the respondent Nos. 1 and 2 to forthwith disconnect the electricity of the private

respondent No. 5 who is illegally enjoying the electricity in the premises of your petitioner;

2. Admittedly, the fifth respondent, Bhusan Kumar Das, is an occupier of a portion of the premises. The petitioner claims that he is the owner of

the premises, and that Bhusan is a rank trespasser. The petitioner filed a suit for Bhusan's eviction. The Civil Court made a decree for eviction.

The decree has been put into execution. At such stage the petitioner has brought this petition.

3. Mr. Ray, counsel for the petitioner, submits as follows. Since Bhusan's appeal from the decree for eviction was rejected, the petitioner has

acquired a right to call upon the West Bengal State Electricity Distribution Company Limited that supplied electricity to Bhushan to disconnect

supply of electricity to Bhusan.

4. The question is whether the petitioner is entitled to call upon the licensee under the Electricity Act, 2003 to disconnect supply of electricity to

Bhusan.

5. Supply of electricity to a consumer can be disconnected by the licensee only in terms of provisions of the West Bengal Electricity Regulatory

Commission (Electricity Supply Code) Regulations, 2007, Reg. 4.0.

6. The regulation provides that supply to a consumer can be disconnected for non-payment of charge, for theft or unauthorized use of electricity,

for distress or damage to the electrical plants, electric lines or meter, for prevention of loss of human life and property, on request in writing by the

consumer, or for incorrect or wrong declaration.

7. Nothing in the regulations confers a right on a person getting a decree for eviction of a consumer of a licensee to call upon the licensee to

disconnect supply of electricity to the consumer suffering the decree. I am, therefore, of the view that the petitioner has no statutory right to call

upon the licensee to disconnect supply of electricity to Bhusan.

8. The decree for eviction obtained by the petitioner is to be executed according to law and during pendency of the execution proceedings the

petitioner cannot be permitted to exercise an extra legal right using the process of Writ Court. In my opinion, the petition is totally misconceived.

9. For these reasons, the petition is dismissed. No costs. Certified xerox.