

Kamal Adhikary Vs State of West Bengal and Others

Court: Calcutta High Court

Date of Decision: Dec. 7, 2005

Acts Referred: West Bengal Municipal Act, 1993 â€” Section 231

Citation: (2006) 1 CHN 698

Hon'ble Judges: Jyotirmay Bhattacharya, J

Bench: Single Bench

Advocate: Madhumita Roy, Tapas Kumar Ghosh, for the Appellant; P. Nath and K.N. Mukherjee, for the Respondent

Final Decision: Allowed

Judgement

Jyotirmay Bhattacharya, J.

The petitioner's application for obtaining water connection to his premises being Holding No, 627/535 Mohalla

Chhotogalli Lane, Chinsura, was rejected by the municipal authorities on the ground that such connection cannot be given unless all the owners of

the said holding give consent for taking water connection by the petitioner in the said premises.

2. Admittedly, the petitioner is the co-owner of the said premises.

3. The only question which has cropped up in this writ petition is as to whether a co-owner can obtain water connection in a joint property without

obtaining consent from the other co-owner.

4. Section 231 of the West Bengal Municipal Act, 1993 not only recognizes the right of an owner but also recognized the right of an occupier of a

premises in getting water-connection subject to compliance of the necessary formalities as provided in the said Act or the rules framed thereunder,

5. Thus, when the right of an occupier is also recognized for getting the water-connection in a premises without the consent of the owner thereof,

this Court is unable to find any justification for rejecting the petitioner's prayer for water-connection for want of consent of the other co-owners of

the said premises.

6. A co-owner of a property is no doubt one of the owners of a property who can exercise all his rights in respect of a joint property.

7. As such, this Court holds that the ground on which the petitioner's prayer for water-connection has been rejected by the municipal authorities as

contained in Annexure P-4 to this writ petition at page 34 is absolutely illegal and therefore, cannot be sustained. The impugned communication

being Annexure P-4 to this writ petition at page 34 thus stands quashed.

8. The municipal authorities are directed to give water-connection to the petitioner in the aforesaid holding subject to compliance of requisite

formalities in this regard. Such water connection should be given by the municipal authorities positively within two weeks from the date of

compliance of the requisite formalities by the petitioner in this regard.

9. This writ petition thus stands allowed.

10. Let a xerox plain copy of this order duly countersigned by the Assistant Registrar, Court be given to the learned Advocates for the respective

parties on usual undertaking.