

Ejectment Suit No. 03 OF 18 CIS 11 OF 18

30-07-2019

Today is fixed for hearing of the petition filed by the defendant U/s-151 of CPC dated 16.04.2019. Plaintiffs filed W/O on 26.06.2019.

Both filed hazira.

The petition is taken for hearing.

By filing the instant petition the plaintiffs prayed for necessary order directing the plaintiffs and their men agents not to create any sort of disturbance and obstruction at the time of installing the energy meter into the meter room.

In his petition, the defendants stated that previously they had been enjoying the energy through a meter allotted by the defendants at the time of induction and the defendants used to pay the energy charges to the plaintiffs month by month as per determination of the plaintiffs from time to time but the plaintiffs with ulterior motive to harass the defendants did not pay energy charge before the concerned authority and the authority disconnected the electricity line of the defendants on 05.03.2019 for which defendants severally asked the plaintiffs but all went in vain. The defendant applied for new electric connection before the CESE Ltd. and the concerned authority inspected the locale to install the meter but the plaintiffs and their men and agent restrained the agent of CESE and sent the letter to the defendant asking him to arrange accessible position to the said meter room. Getting the said notice from

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the CESE the defendant requested the plaintiffs to allow him to install the meter through CESE men into the meter room to enjoy the electricity but plaintiffs refused to grant such permission.

The plaintiffs by filing W/O denied the allegation so raised by the defendant and stated that after induction of the defendant to the suit property, the defendant used to pay electric charges to the plaintiffs but since March, 2017, the defendant never paid the electric charges to the plaintiffs but the plaintiffs paid the electric bill to the CESE of the said electric meter wherefrom the defendant enjoying the electricity month by month and that meter has been used by other tenant also. But it is not possible for the plaintiffs to carry the same procedure in future. The plaintiffs further stated that it is not possible for them to allow the defendant to install the new meter in the existing meter room. If the defendant all the dues of said meter in the name of Mohan Sinha, he will use the same further and in that case plaintiffs have no objection.

Heard the Ld. Advocate for the both sides.

The plaintiffs today produced before the Court a letter issued by CESE to the defendant stating that they are not getting access to install meter as applied by the defendant.

On hearing both sides, it reveals before the Court that none of

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the parties produced any document regarding their previous arrangement of depositing electricity charges before the Court. Although from the agreement it appeared that there was one arrangement of electric supply in the suit property through a meter which is lying in the name of one, Mohan Sinha. Said Mohan Sinha is not a party to the suit.

The Ld. Advocate for the defendant during hearing also admitted the fact providing electric connection to the defendant through the meter standing in the name of Mohan Sinha. The Ld. Advocate further submitted that due to the dispute arises between the parties, at present the plaintiffs disconnected the electric supply to the defendant.

The Ld. Advocate for the plaintiffs also stated that the defendant is intended to install the new meter in the meter room of the plaintiffs which is not justifiable. The Ld. Advocate during hearing submitted before the Court that electric being necessary service cannot be denied to the defendant who in this case is a tenant of the suit property. The plaintiffs failed to produce any document in support of their claim that defendant has stopped paying electricity charges since March, 2017 and they deposited the same on behalf of the defendant. The fact remains which is very clear from the contention raised by the parties that due to the dispute

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between the parties after institution of this suit the defendant at present failed to get supply of electricity. In this circumstances, considering the fact that electricity being an essential service and covered within the purview of Article 21 of our constitution and the defendant being tenant under the plaintiffs the service of the same cannot be denied on any pretext whatever may be till the relationship between the parties subsists. However, the defendant should not be allowed to install meter in the meter room of the plaintiffs and such meter should be installed at the tenanted portion of the defendant. On this score, this Court is inclined to allow the petition filed by the plaintiffs U/s-151 of CPC.

Hence it is,

O R D E R E D

that the petition filed by the plaintiffs u/s-151 of CPC dated 16.04.2019 is allowed. The plaintiff is at liberty to install a new electric meter at his tenanted portion at his own costs. The plaintiff is directed not to interfere with said installation with the electric meter. The CESE authority is directed to make all necessary arrangements to install a new electric meter at the tenanted portion only of the defendant on his application. The defendant by this order the defendant is not allowed to install a new meter in the meter room of the plaintiffs.

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Fix 29-11-2019 for 7(2) hearing.

D/c by me

CJ (Jr. Divn.)
Bidhannagar

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