

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.12389/2000

(From the judgement and order dated 07/04/2000 in CO 538/00
of The HIGH COURT OF CALCUTTA)

WEST BENGAL STATE ELECTRICITY BOARD &ANR

Petitioner (s)

VERSUS

AMALENDU SAHOO & ANR.

Respondent (s)

(With prayer for interim relief & Office Report)

Date : 01/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V.N. KHARE
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s) Mr. HK Puri,Adv.
Mr. S.K. Puri,Adv.
Mr. Ujjwal Banerjee,Adv.
Ms. Anindita Gupta,Adv.

For Respondent (s) Dr. D.P. Pal,Sr.Adv.
Ms. Priya Hingorani,Adv.
Mr. Aman Hingorani,Adv. for
M/s. Hingorani & Associates.,Adv.

UPON hearing counsel the Court made the following
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After hearing learned counsel for the parties for
ten minutes, the Court dictated an order granting leave
and disposing of the appeal with no order as to costs.

.SP1 (Neelam Kawatra) (S. Krishnan)
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.900 OF 2002@@

West Bengal State Electricity Board
& Anr.

Appellant (s)

versus

Amalendu Sahoo & Anr.

Respondent (s)

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Leave granted.

Heard learned counsel for the parties.

It appears that since the plaintiff-respondent did not pay the electrical dues, the appellant herein disconnected the electric supply to the premises of respondent No.1. Under such circumstances, plaintiff - respondent No.1 herein, brought a suit for mandatory injunction for restoration of electric supply to his premises, inter alia, on the ground that the demand towards electricity charges raised by the defendant-appellants herein being based on defective meter was illegal. The suit for illegal demand of dues related for the period from June 1994 to November, 1994. In an interlocutory application for grant of temporary injunction, the trial court directed that subject to the payment of 50% of the dues by the respondents, the appellants herein shall restore the electric supply. It is alleged that after grant of temporary injunction subsequent bills were not paid by the respondents and as such the electric supply to the premises of respondent No.1 was again disconnected. Under such circumstances, the respondent again moved an application for restoration of electric supply. The Trial Court again directed for restoration of electric supply subject to the payment of 50% of the dues. Aggrieved, the respondents preferred an appeal, which was dismissed. A revision petition under Section 115 of the Code of Civil Procedure was filed, which was also dismissed. It is against the said judgment, the appellants have preferred this appeal.

One of the arguments raised by the appellants' counsel is that the suit filed by the plaintiff-respondents was not maintainable as the Civil Court has no jurisdiction to decide the suit and the High Court illegally refused to exercise jurisdiction to entertain the said argument on the premise that it was not raised before the trial court. This view of the High Court appears to be erroneous. However, learned counsel for the parties are agreed that the matter in dispute be referred to for decision by the Electrical Inspector. We, accordingly, direct that if the plaintiff-respondents approaches the appellants for referring the dispute to the electric Inspector, the appellant shall, within six weeks from receipt of such request refer the dispute to the the electrical Inspector. The Electrical Inspector on receipt of the reference shall decide the matter, if possible, within a period of six months. In the meantime, the respondent No.1 shall pay the energy dues to appellants for period beginning 1.10.2000 till date on the basis of the energy consummation recorded in the meter. However,

energy dues from 1.10.94 to 30.9.2000, the plaintiff-respondent No.1 be required to pay 2/3 of the said amount within a period of three months from today which shall be subject to the final decision by the Electrical Inspector. In the event the dues are not paid, it would be open to the appellant to disconnect the supply and realise the dues, in accordance with law.

The appeal is decided in the aforesaid terms.

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.....J
(V.N. Khare)

New Delhi,
February 01, 2002.

.....J
(Ashok Bhan)