

(2012) 02 CAL CK 0047
In the Calcutta High Court
Case No : C.O. 3264 of 2010

Debabrata Biswas

APPELLANT

Vs

Dr. Sudhangsu Sekhar Mitra

RESPONDENT

Date of Decision : 01-02-2012

Acts Referred:

Citation : (2012) 02 CAL CK 0047

Hon'ble Judges : Soumen Sen, J

Bench : Single Bench

Advocate : S.N. Mitra and Mr. Hiranmoy Bhattacharyya, for the Appellant;
Sadananda Ganguli, Gopal Chandra Ghosh and Mr. Debapratim Banerjee, for the Respondent

Judgement

Soumen Sen, J.—This revisional application relates to supply of water to the suit premises. While the plaintiff would contend that the petitioner is a licensee, the petitioner would contend that he is a tenant. The petitioner also has suffered a decree and an appeal against such decree is pending before the Appeal Court. At this stage an application was filed for appointment of a Commissioner so as to effect of supply of water to the suit premises.

2. The Commissioner held an inspection and filed a report on 22nd November, 2005 wherein after inspection he found that at the time of inspection the tap connection in the plaintiff's premises was not functioning. He also found that there is a concrete water tank and upon opening the lid he found some water which is about 2" ft. deep. He also found that five connections from the tank fixed permanently and each connection bear individual device which was described by the parties as controlling device. The respective devices were also found functional and he was of the view that water could be suspended or started by any person. Considering the said report the application for supply of water at the instance of the petitioner was rejected. Apparently no infirmity could be found from the reading of the order but the problem is a practical problem which needs a practical solution. To avoid all controversy the petitioner is

permitted to have his separate water connection from the underground tank and accordingly in presence of the Advocate-Commissioner who has already filed his report, the petitioner would be permitted to consume 500 litres of water from the water tank by installation of one or two Polythene tank to which the plaintiff would not object.

3. This arrangement would continue till the conclusion of the matter before the Court below.

4. Mr. Ganguly, learned Counsel appearing for the opposite party assures that the opposite party would not cause any inconvenience to the petitioner for the purpose of installation of the said tank or to consume the water in any manner whatsoever.

5. Without prejudice to the rights and contentions of the parties to the proceeding Mr. Mitra's client would pay sum of Rs.4,000/- p.m. on and from August, 2005 till date within a period of two weeks from date and shall go on paying Rs.4,000/- p.m. till the appeal is disposed of. Mr. Mitra also assures that his client would also not cause any obstruction to the free flow of water into the tank and in fact his client has never caused any obstruction.

6. With this observation this revisional application is disposed of.

7. However, at this stage the opposite party submits that some direction may be given for expeditious disposal of the appeal pending before the Additional District Judge, 1st Court at Barasat. This Court is informed that the appeal is otherwise ready.

8. In view thereof the said Additional District Judge, 1st Court, Barasat is directed to dispose of the appeal within eight months from the date of communication of this order.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the appearing parties upon compliance of all formalities.