
(2018) 11 CAL CK 0040
In the Calcutta High Court
Case No : Writ Petition No. 534, 564 Of 2018

Dipak Kumar Kolay

APPELLANT

Vs

Cesc Limited & Ors.

RESPONDENT

Date of Decision : 27-11-2018

Acts Referred:

Citation : (2018) 11 CAL CK 0040

Hon'ble Judges : Samapti Chatterjee, J

Bench : Single Bench

Advocate : Manju Agarwal, Bajrang Manot, Madhusudan Saha Roy, Sipra Majumder, Susmita Biswas Chowdhury, Lokenath Chatterjee

Final Decision : Disposed Off

Judgement

The Court : Since common issues are involved, as stated by Ms. Agarwal, learned Counsel for the petitioners, therefore, both two writ petitions are taken up together for hearing.

Ms. Agarwal, learned Counsel appearing for the petitioners, submits that Dipak Kumar Kolay, the petitioner in respect of the first petition i.e. W.P.

No.534 of 2018, is the father of Sudipta Kolay, who is the petitioner in respect of the second petition i.e. W.P. No.564 of 2018, against whom the final

assessment order has been passed. It is also stated that the licensing company not only removed the meter from the premises of Sudipta Kolay on the

alleged ground of pilferage of electricity but also removed the meter from the premises of Dipak Kumar Kolay, though rightly against Dipak Kumar

Kolay no such case of pilferage has been raised by the licensing company.

Ms. Agarwal also submits that the impugned final assessment order is bad in law as there are so many lacunas in it. She also submits without

following the existing rules the licensing company arbitrarily and illegally made inspection of the said premises. Therefore, in conclusion, Ms. Agarwal

submits that the Court should quash the impugned assessment order thereby directing the licensing authority to restore the supply to both the meters

standing in the names of Dipak Kumar Kolay as well as his son Sudipta Kolay.

Per contra, this submission of Ms. Agarwal is vehemently opposed by Dr. Saha Roy, learned Advocate appearing for the CESC authority. Dr. Saha

Roy submits that admittedly Sudipta Kolay, son of Dipak Kumar Kolay, by practicing fraud has pilfered electricity; therefore, Sudipta Kolay was

served with the provisional assessment order. Against that Sudipta Kolay submitted written objection. After considering the written objection in the

hearing, the final assessment order was passed on 26th October, 2018. Therefore, Sudipta Kolay is liable to pay the entire amount as mentioned in the

final assessment order.

Considering the submissions advanced by the learned Advocates and perusing the records, I find that admittedly, in W.P. No.534 of 2018, moved by

the petitioner Dipak Kumar Kolay, father of Sudipta Kolay, petitioner in W.P. No.564 of 2018, there is no case of pilferage raised against the

petitioner. But unfortunately, the licensing authority at the time of removing meter stands in the name of Sudipta Kolay also removed the meter which

stands in the name of his father Dipak Kumar Kolay.

Considering the above facts, in my considered view, justice would be subserved if the petitioner in W.P. No.564 of 2018 Sudipta Kolay is directed to

pay 55% of the amount mentioned in the final assessment order along with meter replacement charges as well as reconnection charges within 10(ten)

days from today. Therefore, I direct Sudipta Kolay, petitioner in W.P. No.564 of 2018, to deposit 55% of the final assessment order along with meter

replacement charges and reconnection charges with the CESC authority within 10(ten) days from today.

If such payment is made, as indited above, then the licensing company is directed to take steps for meter replacement and also reconnection of both

the meters in respect of both the petitioners, Dipak Kumar Kolay and Sudipta Kolay without any further delay but positively within 48 working hours.

After restoration of supply, the petitioner Sudipta Kolay in W.P. No.564 of 2018, is directed to prefer statutory appeal before the appellate authority

within 7(seven) days. If such appeal is preferred, as directed above, then the appellate authority is directed to dispose of the appeal in accordance with

law within four weeks after giving an opportunity of hearing to the petitioner and communicate the decision to the petitioner forthwith.

Needless to mention, if the petitioner in respect of W.P. No.564 of 2018 fails to prefer appeal within the stipulated time as mentioned above, then the

licensing company shall be at liberty to take steps for disconnection of supply without any further notice.

Since it is submitted by Ms. Agarwal that the petitioner in W.P. No.564 of 2018 does not want to press prayer (a), therefore the prayer (a) of W.P.

No.564 of 2018 is accordingly dropped.

With the above directions, both the writ petitions i.e. W.P. No.534 of 2018 and W.P. No.564 of 2018 are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.