

**Cesc Limited and ors. Vs. Smt. Sumitra Singh and ors.**

**Cesc Limited and ors. Vs. Smt. Sumitra Singh and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/903040](http://sooperkanoon.com/903040)

**Court :** Kolkata

**Decided On :** Jul-09-2010

**Judge :** J.N. Patel, C.J. and; Bhaskar Bhattacharya, J.

**Acts :** [Indian Electricity Act, 1910](#); ; [Constitution of India](#) - Article 226

**Appeal No. :** F.M.A. No. 197 of 1999

**Appellant :** Cesc Limited and ors.

**Respondent :** Smt. Sumitra Singh and ors.

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** Jayak Kumar Gupta, Adv.

**Judgement :**

**Bhaskar Bhattacharya, J.**

1. This Mandamus-Appeal under Clause 15 of the Letters Patent is at the instance of two of the respondents in a writ-application under Article 226 of the [Constitution of India](#) and is directed against an order dated 21st August, 1997 passed by a learned Single Judge of this Court by which His Lordship while entertaining a writ-application and passing direction for filing affidavit, passed an interim order directing the appellant No. 1 before us to seal the existing meter of the writ-petitioner in her presence and that of respondent No. 7 in the writ-application and

to place the same in the custody of the Chief Electrical Inspector and to install a new meter within 48 hours with further direction to reconnect the electricity.

2. Being dissatisfied, the CESC Authority has come up with the present mandamus appeal.

3. The respondent No. 1 filed a writ-application under Article 226 of the [Constitution of India](#) thereby alleging that although no amount was due and payable by her in spite of payment of all the bills, the CESC Authority without giving any reason or without prior notice disconnected the supply of electricity. The writ-petitioner, therefore, prayed for direction upon the CESC Authority to restore the supply of electricity to the writ-petitioner as indicated in the writ application.

4. As mentioned earlier, the learned Single Judge passed a direction upon the CESC Authority to give affidavit and at the same time, passed the aforesaid interim order.

5. It appears from record that in the present appeal, a Division Bench of this Court on 17th September, 1997 on an application for stay filed by the appellant, modified the order impugned to this extent that the writ-petitioner would deposit a sum of Rs. 50,000/- within 2 weeks from the date of passing of such order with the appellant No. 1 with further direction that if such amount was deposited, the CESC Authority should restore electricity line in the premises within 24 hours for making such deposit through a new meter.

6. This appeal is pending in this Court for the last 13 years and the aforesaid modified interim order passed by the Division Bench in this appeal has been subsisting.

7. After hearing, Mr. Gupta appearing on behalf of the appellant and after going through the materials on record, we find that the writ-application is yet to be disposed of on merit and the present appeal has been preferred against an order granting ad interim order of restoration of supply of electricity with a direction for removal of the existing meter after sealing the same in the presence of the persons mentioned in the order impugned.

8. The allegation of the appellant is that the writ-petitioner pilfered electricity by tampering the meter in question, as a result, the appellant was compelled to disconnect the electricity.

9. As the dispute in question is governed by the [Indian Electricity Act, 1910](#), we find that the learned Single Judge by relying upon a Division Bench decision of this Court as mentioned in the order impugned rightly held that it is for the Chief Electrical Inspector to assess the amount of the alleged pilfered electricity, if any, and as such, the CESC Authority had no right to calculate the amount of the alleged damages suffered by it.

10. We have already pointed out that a Division Bench of this Court has modified the said order in the presence of the parties by giving direction upon the consumer to deposit a sum of Rs. 50,000/- and such interim order is continuing for last 13 years.

11. In such circumstance, we find no reason to enter into the merit of the dispute as the main writ-application is yet to be decided on merit.

12. We, therefore, propose to maintain the order dated 17th September, 1997 passed by the Division Bench of this appeal which is subsisting for more than a decade by which the order impugned was modified till the disposal of the writ-application with further added condition that the writ-petitioner will go on paying the current electric bill as per meter reading.

13. Since the writ-application is pending for a long time, we request the learned Single Judge to dispose of the main writ-application positively within 3 months from the date of communication of this order. The appellant must file the affidavit-in-opposition, if not already filed, within a fortnight from today. This mandamus-appeal is thus disposed of.

14. In the facts and circumstances, there will be, however, no order as to costs.

15. I agree.