

22.12.2020
Sl.No.05
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 671 of 2020

Nandalal Shaw
Vs.
CESC Limited & Ors.

Mr. Chanchal Kumar Dey
.....for the petitioner.
Mr. Debanjan Mukherjee
.....for CESC Limited.
Mr. Purnendu Das
.....for the respondent no.4.

Affidavit of service filed in Court today be taken on record.

The petitioner seeks a new electricity connection. The petitioner says that the petitioner has applied for new connection, but till date, no connection has been given.

On behalf of CESC Limited (licensee), it is submitted that the petitioner has been deriving electricity from a meter bearing no.5576888 standing in the name of the respondent no.4 (private respondent). Since the petitioner is already deriving electricity and that there is an order dated 6th July, 2019 recording the undertaking of the respondent no.4 to provide electricity to the petitioner, the application for new connection made by the petitioner was not processed with by CESC Limited.

On behalf of the respondent no.4 (private respondent), it is submitted that the predecessor-in-

interest of the petitioner was a tenant. The private respondent does not recognise the petitioner as a tenant and there is a suit pending for recovery of possession of the portion now under occupation of the petitioner. The private respondent further submits that he was and still is ready and willing to supply electricity to the petitioner.

To accede to the offer given by the private respondent, this Court has to prima facie form an opinion as to whether the original tenancy condition was letting with electricity or without electricity. The writ Court cannot go into this issue. That apart and in any event, there is a suit pending between the private respondent and the petitioner within the ambit of which this dispute falls. The petitioner so remains in occupation pending disposal of the suit is entitled to receive electricity.

In order to avoid all future complications as to use and enjoyment of electricity by the petitioner thereby giving rise to further litigation on this issue, a new connection should be given to the petitioner, if the petitioner is otherwise entitled to. Admittedly, the petitioner is in possession of a particular portion of the premises. Unless there is an adjudication that the petitioner is not entitled to occupy the portion presently under occupation, it cannot be said that the petitioner is not entitled to electricity.

In the facts and circumstances as aforesaid, I direct the petitioner to make a fresh application for new connection as the previous application has been rejected by CESC Limited. I also direct CESC Limited to process the application for new connection, if made, by the petitioner and inspect the existing supply point and the position to install a new meter to the petitioner at premises no. 5C, Sandal Street, Kolkata – 700016 within 72 hours from the date of such application.

CESC Limited shall, within 72 hours from the date of the inspection, grant the new connection to the petitioner from the existing supply at the said premises subject to the petitioner making payment of the costs and expenses and complying with statutory requirements.

It is expected that the respondent no.4 (private respondent) shall cooperate with the officials of CESC Limited at the time of inspection and for installation of the new meter and giving connection to the petitioner.

The officer-in-charge, Park Street Police Station is directed to see that there is no breach of peace at or in and around 5C, Sandal Street, Kolkata – 700016 at the time when the officials of CESC Limited inspect the said premises or install the new meter to give connection to the petitioner.

The installation of the new meter at a convenient place at 5C, Sandal Street, Kolkata – 700016 or a new

connection to the petitioner shall not create or abridge or extinguish any right of the petitioner in respect of the portion already under his occupation.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)