

17.12.2020
D/L- 03
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 706 of 2020

Pusparani Das & Anr.
Vs.
Calcutta Electricity Supply Company Ltd. & Anr.

Mr. Sanjoy Mukherjee,
Ms. Koel Sarkar

....for the petitioners.

Mr. Somnath Bose

....for CESC Ltd.

Ms. Anwari Quraishi,
Mr. Zainab Tahur

...for the State.

Mr. Abhijit Ray,
Mr. R. Kumar

....for the respondent no.6.

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

The petitioners say that Gour Mohan Das, the husband of the petitioner no.1 and the father of the petitioner no.2 during his life time was a tenant under Mohan Lal Nath, the deceased father of respondent no.6 in respect of a portion of premises no.43 Charu Chandra Sinha Lane, P. S.- Howrah, Howrah -711101 (hereinafter referred to as the said premises). The petitioners say that they were residing with the original tenant at the said premises till the death of the original tenant. After the death of the original tenant on 22nd June, 1998, the petitioner are continuing to reside at the tenanted portion. A civil suit by the petitioners

against the respondent no.6 was filed. The said suit has been dismissed. At present the petitioners are without electricity. The petitioners had applied for a new connection in June 2015. This new connection has been ultimately processed by CESC Limited, the licensee on 25th March, 2019 after overcoming the resistance from the respondent no.6. The petitioners say that despite the petitioners having deposited all money, no connection has been given to the petitioners and as such, a direction be given upon CESC Limited to give the new connection to the petitioners.

On behalf of CESC Limited, it is submitted that after steep resistance faced from the respondent no.6, with police assistance the inspection could be made for the purpose of raising the quotation on the petitioners. The quotation has been raised on 25th March, 2019 and it is correct that the petitioners have paid in terms thereof. However, due to the continuous obstruction and resistance from the side of the respondent no.6, the connection to the petitioners cannot be granted.

On behalf of the respondent no.6, it is submitted that the said respondent does not recognise the petitioners as his tenant. The petitioners also do not reside at the said premises and as such, the petitioner are not entitled to electricity. Respondent no.6 further says that even if the said Gour Mohan Das was the tenant of the said premises, the petitioners do not have

any legal right for the purpose of getting electricity and as such no electric connection to the petitioners should be allowed to be given.

On behalf of the State, It is submitted that they have provided police assistance to the licensee for the purpose of inspection and are also ready and willing to grant all necessary assistance as may be directed.

After considering the materials on record and the submissions advanced by the parties, it appears that the tenancy of Gour Mohan Das in respect of a portion of the said premises is not under dispute. The dispute is as to the rights of the petitioners to occupy the portion which was let out to Gour Mohan Das during his life time and to receive electric connection thereat. In the absence of any pronouncement finally adjudicating the right inter se between the respondent no.6 and the petitioners, the petitioners respectively being the spouse of the original tenant and son of the original tenant are entitled to reside at the tenanted portion in view of the fact that they were residing with the tenant till his death. No such pronouncement has been placed before this Court by the private respondent or by any other party. The petitioners are either statutory tenant or trespassers. In either of the capacity the petitioners are entitled to electricity.

In such circumstances, the inter se disputes between the respondent no.6 and the petitioners

regarding the right of use and enjoyment of the portion let out to Gour Mohan Das unless finally decided cannot stand in the way of the petitioners receiving a new electricity connection from CESC Limited.

CESC Limited shall, within 24th December, 2020 provide a new electricity connection to the petitioners by installing a meter at a convenient place at the said premises subject to payment of cost and charges and statutory compliances.

It is expected that the respondent no.6 shall co-operate with the officials of CESC Limited for installing a new meter to give the new connection to the petitioners. In the event CESC Limited is resisted either by the respondent no.6 or at his behest CESC Limited shall seek police assistance from the officer-in-charge, Howrah Police Station. Officer-in-Charge, Howrah Police Station, if approached, shall not only render police assistance, but shall ensure that no breach of peace takes place in and around the said premises while the new connection is granted to the petitioners. The cost of police assistance, if required, has to be borne by the petitioners upon the petitioners being notified of such cost.

It is made clear that the grant of new connection to the petitioners will neither create nor abridge nor extinguish any civil right either of the petitioners or of

the respondent no.6 in respect of the tenanted portion of the said premises.

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.)