

5
18.02.2021
sb
Ct23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 99 of 2021

Suraj Kumar Yadav
Vs.
CESC Limited & Ors.

Mr. Sukumar Bhattacharya,
Ms. Sayani Bhattacharya
... For the petitioner.

Mr. Rajiv Lall
... For CESC Limited.

Mr. Animesh Das,
Mr. Dipankar Ghosh
... For the respondent no.4.

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

The petitioner has applied for a new electric
connection at a portion of premises no.49, Madhab
Babu Lane, Ghusuri, Howrah – 711107.

CESC Limited, the licensee, pursuant to the
petitioner's application visited the premises in
question but could not carry out the inspection as
the access to the meter room /meter board position
was not given to the authorized personnel of CESC
Limited. This incident was communicated by CESC
Limited vide letter dated 12th December, 2020 to the
petitioner. On behalf of the petitioner, it is also
submitted that due to non-cooperation by the
respondents no. 4, 5 and 6, the access to the meter

room was not available to the authorized personnel of CESC Limited.

On behalf of CESC Limited, it is submitted that the meter room is under lock and key. Unless necessary police assistance is given, the officials of CESC Limited cannot inspect the same and give connection to the petitioner from the existing service main at the premises in question, though the CESC Limited is ready and willing to give the connection to the petitioner.

On behalf of the respondent no.4 (private respondent), it is submitted that the petitioner is a rank trespassers and, as such, is not entitled to any separate electric connection at any part or portion of the premises in question. The respondent no.4, however, admits that the petitioner is in possession of a portion of the premises in question.

Inasmuch as, the petitioner is in possession of a portion of the premises in question, the petitioner is entitled to electricity even if there is a dispute between the petitioner and the private respondents in respect of the portion under petitioner's occupation. The right *inter se* between the petitioner and the private respondents with regard to the portion under petitioner's occupation has to be decided by a competent civil Court and the writ Court while hearing an application for grant of new

electricity connection cannot go into such issues. The writ Court is only required to see whether the petitioner is in settled possession of the portion wherein connection is sought for. In the instant case, the settled possession of the petitioner is *prima facie* established, which entitles the petitioner to get a new electric connection.

In the facts and circumstances, I direct CESC Limited, to visit the premises in question on 23rd February, 2021 at 11.30 a.m. to carry out the inspection of the meter room/meter board position. Since one of the private respondents is represented and others remain unrepresented despite service, no further notice shall be given to any of the parties for the purpose of inspection that is scheduled to take place on 23rd February, 2021. On carrying out inspection, CESC Limited, within 1st March, 2021, shall raise a quotation upon the petitioner regarding the costs and expenses that the petitioner has to pay. Within seven (7) working days from the date of the petitioner paying the costs and expenses in terms of the quotation that will be raised by CESC Limited, CESC Limited shall give a low-tension metered connection to the petitioner from the existing service main at the said premises. It is expected that the private respondents shall co-operate with the officials of CESC Limited at the time of inspection on 23rd

February, 2021 as also at the time of execution of work to give connection to the petitioner. The respondent no.3, being the Officer-in-Charge, Malipanchghora Police Station, is directed to ensure that there is no breach of peace on 23rd February, 2021, during the time the inspection is done by the officials of CESC Limited, in and around the premises in question as also on the subsequent dates when CESC Limited execute the work to give new connection to the petitioner.

The petitioner and CESC Limited shall communicate a copy of this order to the respondent no.3 so that the said respondent can make necessary arrangement for 23rd February, 2021. The petitioner and CESC Limited shall well in advance inform the respondent no.3 as to the date and tentative time during which officials of CESC Limited will execute the work subsequent to the petitioner's making payment for giving a new connection to the petitioner. The respondent no. 3 shall be empowered to break open the padlock of the meter room if the private respondents do not co-operate and supply the keys of the meter room.

It is made clear that the new low-tension metered connection from the existing service main at the premises in question will neither create any new right nor abridge or extinguish any existing right of

the petitioner vis-à-vis the private respondents in respect of the portion under the occupation of the petitioner.

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

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

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

(Arindam Mukherjee, J.)