

08.01.2021
Sl.No.16
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2876 of 2020

Krishna Lal Shaw
Vs.
CESC Limited & Ors.

Mr. Falguni Bandyopadhyay,
Mr. Dhananjoy Banerjee

....for the petitioner.

Mr. Somnath Bose

....for CESC Limited.

Mr. Farhan Ghaffar

....for the respondent no.4.

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

The petitioner claims to be a tenant of a shop room under the respondent no.4 (private respondent). The petitioner says that the petitioner is operating his business of sale of food and non-food items from the said shop room and has been granted a certificate of enlistment by the Kolkata Municipal Corporation in 2017 for such purpose. The petitioner has applied for a new meter in the petitioner's name and a connection therefrom, but the same has not be granted due to the resistance from the side of the respondent no.4 (private respondent).

On behalf of CESC Limited, it is submitted that they are willing to give connection to the petitioner but the same could not been given on being prevented by the private respondents.

Inter se dispute between the landlord and tenant cannot deprive a tenant who is in possession even if his/her tenancy has been terminated getting a electricity connection because the status of such tenant will be either that of a statutory tenant or a tenant-in-sufferance.

Granting of electric connection also does not create any new right or abridge or extinguish any existing right of the tenant in respect of the tenanted portion and as such, the landlord is also not affected by such electricity being provided to the tenant.

In the instant case, there is no denial that the petitioner is not in occupation of the shop room. Moreover, the certificate of enlistment, prima facie, shows that the petitioner is operating the shop room.

In such circumstances as aforesaid, I direct CESC Limited to grant electric connection to the petitioner within 27th January, 2021 by installing a new meter and connecting the same to the existing service main at the premises wherein the shop room is located, unless the same is impossible. The connection shall be given subject to payment of all necessary costs and expenses and upon complying with the statutory requirements.

It is expected that the private respondent shall cooperate with the officials of CESC Limited at the time of granting connection to the petitioner.

The officer-in-charge of the concerned police station, if approached, shall see that there is no breach of peace at the time when the officials of CESC Limited visit the premises-in-question for the purpose of granting connection to the petitioner.

It is made clear that I have not gone into any of the right of the petitioner vis-à-vis the private respondent in respect of the tenanted shop room. The electricity connection will neither create any new right nor will abridge or extinguish any existing right of the petitioner in respect of the said shop room.

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.)