

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

(Via Video Conference)

WPA 2932 of 2020

Dipak Kumar Sengupta @ Kajal Sengupta
Vs.
The Calcutta Electric Supply Corporation Limited & Ors.

Mr. M. Thomas
Mr. Partha Sarathi Das
... For the petitioner

Mr. Amitava Chaudhuri
Mr. N. Roy
... For CESC Limited

Mr. Animesh Paul
Ms. Fatima Hassan
Ms. Shaloni Basu
... For the private respondent

The petitioner says to be a tenant under the respondent no.4 in respect of flat no.7 at Bakul Bithi Apartment, B-1/7, Ultadanga Main Road, P.S. – Maniktala, Kolkata – 700067 (hereinafter referred to as the “said flat”). The petitioner was enjoying electricity from a meter standing in the name of the respondent no.4 (private respondent). The respondent no.4 is not allowing the petitioner to enjoy electricity from the same meter any more. In such backdrop, the petitioner applied for a new connection to CESC Limited. Despite such application made on 11th November, 2019, no connection has been given to the petitioner. As a result whereof, this writ petition has been filed.

On behalf of CESC Limited, it is submitted that the petitioner is not cooperating with the officials of CESC Limited. The petitioner was asked to submit certain documents by a letter dated 14th November, 2019 appearing at page 36 of the writ petition, but the same has not been submitted.

On behalf of private respondent, it is submitted that the petitioner is not a tenant but was allowed to look after the said flat as a caretaker and is now claiming to be a tenant. A civil suit filed by the private respondent is pending for recovery of possession against the petitioner.

After considering the respective submission and the materials on record, I find that the petitioner is entitled to an electric connection at the said flat irrespective of the dispute between the petitioner and the respondent no.4 particularly when the petitioner is in possession of the flat. The electricity connection, if provided to the petitioner, will neither create any new right nor abridge or extinguish any existing right of the petitioner in respect of the said flat and, as such, any existing right of the respondent no.4, on the petitioner being granted an electric supply, will not be also infringed in any manner.

So far as the contention of CESC Limited is concerned, the petitioner and the private respondent are before the Court and, as such, the stand taken by the petitioner as well as the private respondent are clear to them.

CESC Limited, being a licensee, while processing an application for a new connection is expected to take a practical approach instead of insisting upon unnecessary documents which an applicant cannot produce. In case of a dispute like that in hand, it is not expected that the private respondent will issue a “No-Objection Certificate” in favour of the petitioner or make over the tax receipts and other documents for getting a new electric connection, particularly when a civil suit is pending between them. At the same time, the petitioner cannot be deprived of electricity. The possession of the petitioner is admitted by the private respondent no.4.

In such circumstances, I direct CESC Limited to grant a new electric connection to the petitioner by installing a meter in the name of the petitioner at the portion wherein other meters are housed at the said premises and connect the same with the existing main service so that petitioner can enjoy electricity at the said flat. The connection has to be granted within 22nd January, 2021 to the petitioner, subject to payment of all applicable charges and expenses and necessary statutory compliance. CESC Limited shall not insist upon production of the documents referred to in the letter of CESC Limited dated 14th November, 2019 (at page 36 of the writ petition) apart from those which can be produced by the petitioner.

It is expected that the said private respondent shall cooperate with the officials of CESC Limited and the

petitioner while the personnel of CESC Limited go to the premises in question for effecting new connection to the petitioner.

The Officer-in-Charge, Maniktala Police Station (respondent no.3) is directed to ensure that there is no breach of peace at the time when the connection is given to the petitioner by CESC Limited.

CESC Limited and the petitioner shall inform the Officer-in-Charge, Maniktala Police Station (respondent no.3) the date and tentative time of visit of the officials of CESC Limited for giving the new connection well in advance.

Nothing remains further 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 necessary formalities.

(Arindam Mukherjee, J.)