

AD. 23.
November 23, 2021.
MNS.

(Through Video Conference)

WPA No. 11775 of 2021

Raj Kumar Chowdhury
Vs.
Calcutta Electricity Supply Corporation (India)
Limited and others

Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee

... for the petitioner.

Ms. Diana Ghosh Dastidar

...for the CESC Limited.

Mr. Debasis Sur,
Mr. Hare Krishna Halder

...for the private respondent no. 4.

The petitioner's grievance is that, despite having applied for new electric connection, the same has not been supplied due to obstruction raised by the private respondent no. 4.

Learned counsel appearing for the CESC Limited corroborates such contention and submits additionally that the CESC Limited has contacted the petitioner and requested the petitioner to demarcate, by bricks, the portion of the passage beneath which the connection will be given, which has not been complied with as yet by the petitioner.

Learned counsel appearing for the private respondent no. 4 raises an objection to the effect that a suit is pending between the private respondent no. 4 and

the petitioner, in which the private respondents/plaintiffs have raised an objection as regards the passage beneath which the connection is sought to be taken belonging exclusively to the plaintiffs.

A copy of the plaint of the private respondents' suit is handed over by learned counsel for the petitioner. It appears from the plaint of the suit that, in schedule "A" of the said plaint, the passage-in-question has been described as a common passage. Learned counsel appearing for the private respondent no. 4 places reliance on the pleadings at paragraph 2 (page 3) of the plaint which, however, describes the passage in a peculiar fashion, being "wide common passage.....lying as a common of the Plaintiffs only". Although there is apparent contradiction as regards the schedule and the pleadings in the plaint, there is some scope of doubt, since a plausible argument of the private respondent no. 4 could be that there are several plaintiffs and the said plaintiffs, together and in common, are in exclusive possession of the passage.

Be that as it may, it is beyond the jurisdiction of this writ court to go into the merits of the suit. However, since the right of having electric connection is a necessary corollary of the right to life of the petitioner and no hindrance can be caused to the interest of the private respondent no. 4 if such connection is taken beneath the common passage, WPA No. 11775 of 2021 is disposed of by directing the petitioner, upon notice to

the private respondents, to demarcate the portion of the passage beneath which the connection to the petitioner's premises will be taken. The private respondents shall not create any hindrance to such demarcation. Upon all requisite formalities being complied with by the petitioner, the CESC Limited shall take immediate steps for necessary inspection and subsequent grant of electric connection to the petitioner in accordance with law.

It is, however, made clear that the respective contentions of the private parties in the suit have not been gone into by this Court and it will be open to the Civil Court to adjudicate the suit on its own merits.

In the event any obstruction is created to such inspection and electric connection being given by the CESC Limited through its officials, the respondent no. 5, that is, the Officer-in-Charge of Serampore Police Station, shall give adequate police assistance, at the costs of the petitioner, if any, to ensure that the inspection and connection are conducted without any hindrance from any quarter.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)