

09.11.2021

Sl. No. 8

Court No.8

B.M.

WPA 13428 of 2021

Sampati Devi

Vs.

The CESC Limited & Ors.

(Via Video Conference)

Mr. Raja Satyajit Banerjee

Mr. Kailash Tamoli

Ms. Krishnika Chatterjee

Ms. Anwasha Halder

... for the petitioner

Mr. Suman Ghosh

... for the CESC Ltd.

Mr. Falguni Bandyopadhyay

... for the respondent no.2

Mr. Himadri Sekhar Chakraborty

... for the State respondent

The petitioner claims to be a tenant in respect of premises No.49/5/1Z, Karl Marx Sarani, Kolkata-700023 under the respondent no.2 being the owner of the suit premises. Since, the refusal of acceptance of rent, the petitioner started to deposit rent with the Rent Controller. It is submitted that the respondent no.2 has already registered an Ejectment Suit No.65 of 2015 now pending in the court of Civil Judge, Junior Division, 3rd Court at Alipore whereas the petitioner filed a Title Suit No.23 of 2017 for a declaration of her tenancy and injunction against the respondent no.2 landlady owner from evicting the petitioner from the premises without due process of law. It appears that the learned Trial Court by an order of injunction restrained the respondent no.2 from creating

any disturbance in the peaceful possession of the plaintiff/petitioner herein till the disposal of the suit filed by the petitioner. The petitioner applied before the respondent no.1 for an electricity connection at the tenanted premises on 19.12.2020 but the petitioner was informed by the respondent no.1 by a letter dated 26.12.2020 and 24.03.2021 that the respondent could not carry out inspection as the meter room was not accessible.

Learned counsel for the respondent no.1 submits that there were several complaints against the petitioner including the mass complaint from the locality because of misdeed of the petitioner who allegedly tampered the electricity meter and committed theft in electrical energy for that a specific case under Sections 135/138 of the Electricity Act has been registered before the Special Court under the Electricity Act which is still pending.

Thus, it is pointed out that there is inability on the part of the respondent no.1 in carrying out the inspection at the suit premises despite the fact that the petitioner has applied for new connection of electricity at the premises.

It is the contention of the petitioner that the petitioner is in occupation of the suit premises as a tenant under the respondent no.2 and has a right to get new electricity connection in accordance with provision of

Section 43 of the Electricity Act, 2003. So the respondent no.2 should not create any obstruction to the respondent no.1 in carrying out any inspection to the tenanted premises for the purpose of installing new electricity connection.

On behalf of the State respondent no. 3, a report is submitted by the Officer-in-Charge, South Port Police Station, Kolkata dated 2.9.2021 to submit that the CESC Limited has not lodged any complaint with the Police Station about the obstruction being meted out to them or even for a request of police assistance. The report also reflects that on 19.12.2020 the petitioner had applied for inspection of electrical meter before the CESC Authority and the official of the CESC Limited came to the petitioner's premises for causing inspection but they could not reach to the meter board room as the respondent no.2 restrained the CESC official to cause inspection for installation of the electrical meter. The document placed vide annexures to the writ application reflect that admittedly the petitioner has applied for electricity connection to the tenanted premises and the petitioner is depositing rent with the Rent Controller. A photo copy of the plaint also reflects that a suit was filed by the petitioner restraining the respondent no.2 landlady from disturbing the peaceful possession of the petitioner or for taking any steps towards eviction without the due

process of law and the order of the learned trial court reflects that the landlady being the respondent no.2 and her men and agent were directed not to disturb the peaceful possession of the plaintiff and from dispossessing the plaintiff/petitioner herein from suit premises without due process of law till the disposal of the suit.

Having regard to the above fact, there appears a prima facie case in favour of the petitioner for getting supply of electricity under the provision of Section 43 of the Electricity Act as even a person who has no legal right to the premises in possession of the premises has the right to get the essential services like electricity .

For the reasons above, the respondent no.1 is directed to hold inspection of the tenanted premises and to give electricity connection by way of new electric meter in the name of the petitioner upon all legal formalities.

Such exercise of effecting electricity connection to the tenanted premises be done within a period of four weeks from the date hereof. However, it is made clear that getting new connection of electricity meter by the petitioner to the tenanted premises would not create any equity in favour of the petitioner.

The respondent no.1 CESC Ltd. would be entitled to seek Police assistance from the respondent no.3 in case of any obstruction from any corner.

With the above directions and observations the writ application being WPA 13428 of 2021 is disposed of.

All parties shall act in terms of copy this order downloaded from the official website of this Court.

(Shivakant Prasad, J.)