

13th December,
2021
(AK)
05

W.P.A 18806 of 2021

Jaya Bag
Vs.
CESC Limited and others

Mr. Kishore Mukherjee
Mr. Sankha Subhra Ray
...for the petitioner.

Mr. Mihir Kundu
...for CESC Limited.

Mr. Soumendr Nath Ganguly
Mr. Vivekananda Das
Mr. Kinkar Pandit
...for the respondent no.4.

Learned counsel for the petitioner contends that although the electric meter at the premises of residence of the petitioner, initially standing in the name of the petitioner's father, since deceased, was transferred in the name of the petitioner, subsequently, at the behest of the private respondent no.4, the name was re-transferred in the name of the said respondent, allegedly without any notice or hearing being given to the petitioner.

Learned counsel appearing for the CESC Limited submits, by placing reliance on a bunch of documents handed over in court today, that the petitioner had made an online application for transfer of name, upon an

alleged '*No Objection*' being given in writing by the deceased father.

However, on the subsequent application of the private respondent no.4, it was detected that the said No Objection was issued at a time when the petitioner's father had already met with his demise. As such, on the ground of such alleged fraud, the transfer was negated by the CESC Limited and re-transferred in the name of the respondent no.4.

However, in any event, the petitioner is entitled to a prior notice and hearing, as an existing consumer, in the event a re-transfer takes place regarding the name.

In the present case, it appears that no such effort was taken by the CESC Limited at the time of re-transferring the meter in the name of the private respondent no.4.

In such view of the matter, WPA 18806 of 2021 is disposed of by directing the CESC Limited to circulate copies of the bunch of documents filed in court today, which are kept on record, upon the petitioner as well as the respondent no.4, directly or through their learned advocates, by tomorrow, that is, December 14, 2021.

Upon such circulation, the CESC Limited shall re-hear the petitioner and the private respondent no.4 on the allegations of fraud made by the CESC Limited

against the petitioner and, upon giving adequate opportunity of hearing to both the said parties, will come to a decision as regards the fate of the electric meter.

In the event it is found that the documents given by the petitioner were in order and authentic, the respondent no.4 shall have to explain to the CESC Ltd. as to why the transfer in favour of the respondent no.4 shall not be negated and the name of the petitioner be revived in respect of the electric meter.

It is further clarified that the observations made herein are tentative in nature made only for the limited purpose of deciding the present writ petition, subject to the result as well as the interim orders passed in the pending suit between the private parties in respect of the said premises.

It is made clear that the Civil Court will be at liberty to decide the said issues, if raised by the private parties, in accordance with law without being influenced in any manner unnecessarily by any of the observations made above.

The parties shall act on the written communication of the learned Advocates of the parties, accompanied by server copies of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)