

AD. 53.
December 24, 2021.
MNS.

(Through Video Conference)

WPA No. 20396 of 2021

Smt. Kamla Arya
Vs.
CESC Limited and others

Mr. Debabrata Roy

...for the petitioner.

Dr. Madhusudan Saha Roy

...for the CESC Limited.

Ms. Jyotsna Roy Mukherjee

...for the State.

Mr. Debasish De,
Mr. Kamal Krishna Pathak,
Ms. Debanjana De,
Mr. Debasis Das

...for the respondent nos. 8 and 9.

The grievance of the petitioner is that the petitioner obtained an order of injunction from a competent civil court in connection with a civil suit. In connection with the said suit, initially an order of injunction had been passed. Subsequently, vide order dated December 2, 2021, the Second Additional Court of Civil Judge (Junior Division) at Alipore, directed the defendants therein, that is, the present private respondents to resume electric supply along with other facilities to its former condition to the flats of the plaintiffs (including the present petitioner) as per the address of the plaintiffs mentioned in the cause title of the existing

plaint on record, subject to the payment of requisite charges which the plaintiffs incur for consumption of electricity in respect of the current bills.

However, such connection is now been refused by the CESC Limited on the ground that there is a pre-existing high-tension bulk line over the said area, for which no further low-tension line can be given to anyone, in order to avoid safety hazards.

Learned counsel for the private respondents submits that the petitioner has not complied with the direction of the trial court to pay requisite charges till date and, as such, there is no question of restoring such connection to the petitioner.

Upon hearing learned counsel for the parties, including the CESC Limited, it is evident that the application of the petitioner to get a low-tension connection over an area where there is a pre-existing high-tension bulk electric line, is not maintainable in law.

The CESC Limited has taken a specific stand within the authority conferred by Section 53(b) of the Electricity Act, 2003 as regards refusing to give such low-tension connection in a high-tension area to eliminate and reduce risk of personal injury and damage to property.

In such view of the matter, the grievance of the petitioner ought to have been ventilated before the appropriate civil court. Although the petitioner feigns the display of mercy on the petitioner's party by not filing any

contempt application against the private respondents, it appears that the petitioner has adopted the process of filing writ petition to get electricity indirectly what they cannot get directly by virtue of the order of the trial court and to avoid payment of requisite charges to the private respondents, even in the teeth of the order of the civil court dated December 2, 2021.

The relief, if any, of the petitioner lies before the civil court which passed in the order dated December 2, 2021 in Title Suit No. 1381 of 2019 and not before the writ court.

As such, WPA 20396 of 2021 is dismissed with liberty to the petitioner to make appropriate application before the competent civil court. The competent civil court shall take into consideration such application, if so approached by the petitioner, also further assessing as to whether the due charges as directed in the above mentioned order were cleared by the petitioner and pass appropriate orders thereon, without being prejudiced unnecessarily in any manner by any of the observations made in this order.

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.)