

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 23980 of 2019

Saptarshi Dey
Vs.
CESC Limited & Ors.

Mr. Abhijit Ray
... For the petitioner

Mr. Srijan Nayak
... For CESC Limited

The petitioner says that the supply of the petitioner has been disconnected in view of the fact that the service main and the meter board wherein the meter through which the petitioner was receiving electricity is lying under lock and key in a portion which was under the occupation of the erstwhile tenant of the petitioner's father. The legal heirs of the erstwhile tenant after his death is holding on to the tenanted portion despite lapse of five years time period from the date of death of the original tenant as a result whereof the petitioner's father had filed an eviction suit. The portion wherein the service main and the meter board is situated is presently under lock and key of the heirs of the original tenant, Murari Mohan Kundu. The petitioner says that the portion wherein the meter is installed being under lock and key, the officials of CESC Limited were denied access, as a result whereof, CESC Limited has disconnected the supply. The petitioner seeks reconnection in this writ petition.

On behalf of CESC Limited, it is submitted that for a considerable period of time the officials of CESC Limited were denied access to the service main area and the meter board. As a result whereof, even the regular meter reading could not be done. Initially bills were raised on the basis of average consumption but ultimately due to continuous denial of access, CESC Limited was compelled to disconnect the supply from outside. It is also submitted on behalf of CESC Limited that unless access is given to inspect the service main and the meter board, it is not possible for CESC Limited to even say whether reconnection can be granted or not.

Considering the submissions made on behalf of the parties and materials on record, I find that an eviction suit has been filed by the petitioner's father as against the respondent nos.5 to 9 (private respondents), being the legal heirs of Murari Mohan Kundu, the original tenant. The said suit, being Title Suit No.163 of 2019, is now pending before the 13th Bench of City Civil Court at Calcutta.

In order to grant access to the service main and the meter board at the said premises, a direction is required to break open the padlock of the portion under occupation of the private respondents. During the pendency of the eviction suit, the writ court, at this stage, cannot pass such directions for breaking open the padlock of the tenanted portion. Inasmuch as the suit is pending, the remedy of the petitioner lies in approaching the court wherein the suit is pending for appropriate orders being passed.

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.)