

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7666 of 2020
with
CAN 1 of 2020

Gopal Saha
Vs.
CESC Limited & Ors.

Mr. Rafiqua Islam
Ms. Manika Sarkar
... For the petitioner

Mr. Debanjan Mukherjee
... For CESC Limited

Mr. Tapas Kumar Adhikari
... For the State

Ms. Kakali Samajpaty
... For the respondents no.6, 7 & 8

The petitioner has applied for a new Low Tension (LT) metered connection from the existing service main at premises no.3, Seth Bagan Colony, Plot no.81, Ghughudanga, PS – Dum Dum, Kolkata – 700030 which, according to CESC Limited, is premises no.3/81/D, Seth Bagan Colony, Kolkata – 700030. Despite payment of the quotation money, no LT metered connection was given to the petitioner. The petitioner has, therefore, approached this Court invoking the writ jurisdiction.

The matter came up for hearing on 25th January, 2021 when it was submitted by CESC Limited that due to denial of access to the meter room, the meter for giving connection to the petitioner could not be installed. In such

circumstances, CESC Limited was directed to make an endeavour to instal the meter and give connection to the petitioner.

CESC Limited issued a notice dated 29th January, 2021 to the writ petitioner and the respondents no.6, 7 and 8 (private respondents) intimating them that the officials of CESC Limited shall visit the premises on 1st February, 2021 between 11 a.m. and 12 noon. The said notice was received by the petitioner but the private respondents refused to accept the same.

The officials of CESC Limited visited the premises on 1st February, 2021 but did not get access to the meter room since the same was under lock and key. The petitioner though was present but could not arrange for access to the meter room. The respondent no.6 and his daughter were present and had objected to the connection being given to the petitioner. A report prepared by CESC Limited regarding its visit on 1st February, 2021 is made over to the Court which is taken on record and circulated amongst the parties.

On behalf of the private respondents, it is submitted that the petitioner does not stay in the said premises. The petitioner has deserted his wife who stays in the said premises. The petitioner stays elsewhere. The petitioner is seeking an electric connection to establish his possession and right in the said premises. The meter room, according to the private respondents, has been constructed

by the private respondents and, as such, the petitioner should not be permitted to have his meter installed in the said meter room. The private respondents, however, admit that the petitioner is a co-owner of the said premises.

Since the petitioner is admittedly a co-owner of the said premises, the petitioner is entitled to an electric connection thereat. The electric connection will not establish petitioner's possession to the said premises if is not in possession thereof. The *inter se* dispute between the petitioner and the private respondents regarding the right, title and interest of and in the said premises or portions thereof cannot stand in the way in the petitioner receiving an electric connection. The private respondents also cannot resist or object to the petitioner receiving an electric connection at the said premises so long as the petitioner is a co-owner, as a new LT metered connection from the existing service main will neither create any new right nor abridge or extinguish any right of the petitioner vis-à-vis the private respondents with regard to the right, title and interest of and in the said premises. The private respondents also cannot keep the meter room under lock and key since the service main through which the electric supply enters into the said premises is inside the meter room. Unless free access is given to the officials of CESC Limited, there is every likelihood to expose the said building to an untoward fire hazard.

In such facts and circumstances, I direct the Officer-in-Charge, Dum Dum Police Station, being the

respondent no.5, to be present at the said premises on 8th February, 2021 at 11.30 a.m. to ensure that the officials of CESC Limited get access to the meter room concerned at the said premises. The Officer-in-Charge, Dum Dum Police Station, if necessary, shall break open the padlock and allow the officials of CESC Limited to gain access to the meter room if it is found that the private respondents do not supply the key for opening the padlock and resist the officials of CESC Limited from giving connection to the petitioner. The meter shall be installed in the meter room at the said premises wherein the service main of CESC Limited is installed as there can be only one service connection in a premises unless partitioned. The meter has to be also installed near the service main as it is not technically feasible to affix the meter in any portion far away from the service main. The petitioner shall make necessary arrangement so that from the meter to be installed in the meter room at the said premises can be drawn to the portion wherein the petitioner intends to enjoy the electricity.

It is expected that the private respondents shall cooperate with the petitioner and the officials of CESC Limited.

The Officer-in-Charge, Dum Dum Police Station, shall ensure that there is no breach of peace in and around the said premises on 8th February, 2021 when the officials of CESC Limited visit the premises for giving connection to

the petitioner. Since the parties are represented, no further notice be given for the visit of the officials of CESC Limited on 8th February, 2021.

It is made clear that the new LT metered connection by installation of a meter in the meter room will neither create any new right nor will abridge or extinguish any existing right of the petitioner vis-à-vis the private respondents with regard to the right, title and interest of and in the said premises. The finding hereinabove are only for the purpose of adjudicating this writ petition.

Nothing further remains to be adjudicated in this writ petition. The writ petition and the application for urgency, being CAN 1 of 2020, are disposed of without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

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.)