

9th February,
2022
(AK)
03

W.P.A 1249 of 2022

Ashmat Jahan
Vs.
Calcutta Electricity Supply Corporation Limited and
others

(Via Video Conference)

Mr. Saunak Ghosh
Mr. Md. Hossain
...for the petitioner.

Mr. Suman Ghosh
...for CESC Limited.

Mr. Anand Farmania
...for the respondent nos.5, 6 & 7.

WPA 1249 of 2022 has been filed by the petitioner on the allegation that the petitioner is a co-owner of the premises after the demise of her husband and that the private respondents are unnecessarily creating hindrance in the petitioner's enjoyment of electricity in the premises.

As such, it is submitted that the petitioner was constrained to take out an application for getting independent electric connection in her own name at the premises where the petitioner is residing.

Learned counsel appearing for the CESC Limited submits that the private respondents have raised an objection to electric connection being given to the petitioner and the connected inspection.

However, learned counsel appearing for the private respondents submits that the petitioner is a mere trespasser in respect of the premises.

It is further submitted that a suit is pending at the behest of the private respondents for eviction of the petitioner on the ground of being a trespasser.

A counter-suit which was filed by the petitioner seeking declaration of title was dismissed for default and the petitioner has not taken any steps as yet for restoration of the same.

As such, it is argued that the petitioner is not entitled to electric connection at the premises.

However, Section 43 of the Electricity Act, 2003 is absolutely clear on the aspect that even an occupier (without the Section referring to the legality of such occupation) is entitled to have an electric connection at the premises where she or he is residing.

In the present case, as such, even without deciding the respective rights, titles and interests of the private parties, it is obvious that the petitioner, being admittedly in occupation since an eviction suit has been filed by the private respondents against her, is entitled to get electricity at the premises, subject to compliance of all formalities from her end.

In such view of the matter, WPA 1249 of 2022 is allowed, thereby directing the CESC Limited to hold an inspection for giving electric connection to the petitioner

and subsequently, upon compliance of all formalities by the petitioner in that regard, if it is found that it is feasible to give such a new connection to the petitioner, to give such electric connection within three weeks from the compliance of such formalities by the petitioner.

In the event any resistance is created by the private respondent nos.5 to 7 and/or their men and agents at the time of inspection by the CESC personnel or the subsequent giving of electric connection, such personnel will be at liberty to approach the respondent no.4, that is, the Officer-in-Charge of the Nadial Police Station for adequate police assistance in that regard.

If so approached, the respondent no.4 shall give due assistance, at the cost of the petitioner, to the CESC personnel for the limited purpose of holding inspection and thereafter for giving electric connection.

It is made clear that in the event any padlock is put up in the way of access of the CESC personnel to the meter board location, it will be open to the police personnel to break open the padlock for the limited purpose of giving access to the CESC personnel for inspection and for giving electric connection.

The parties shall act on the written communication of the learned Advocates for the parties, coupled with server copy 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.)