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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 2284 of 2022

Laxmi Kanta Bhowmick

-vs.-

The CESC Limited & Ors.

Mr. Sujeet Kumar Maurya,
Mr. Sushil Kumar Maurya
...for the petitioner

Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Tapan Coomaar Dey,
Mr. Nirupam Sarkar,
Ms. Shreya Chatterjee,
...for the respondent no. 3

Learned counsel appearing for the petitioner argues that to get electricity is a basic right of the petitioner, as enshrined in Section 43 of the Electricity Act, 2003 as well as in the Constitution of India under the right to life.

Despite having applied for a new service connection, the CESC Limited has not yet given such supply, causing serious difficulty to the petitioner, who is a heart patient.

Learned counsel appearing for the CESC Limited, by placing reliance on the affidavit-in-opposition filed by the CESC Limited, submits that a connected writ application is pending before this Court, which was filed by the erstwhile owner of the premises, who is the vendor of the present writ petitioner. In the said writ petition, pursuant to a direction

of Court, a report was filed regarding feasibility of giving service connection to the petitioner therein. The said report has been annexed to the affidavit-in-opposition and indicates clearly that there are several impediments to give electricity connection, particularly a service connection, at the premises-in-question.

First, to give service connection, the service cable would be required to travel across/along the underground sewerage system and secondly, the proposed underground service cable would also need to cross over and/or intersect the applicant's sewerage connection pipe between the toilet and manhole no. 1, none of which is technically possible. Moreover, the situation is such, as per the report, that the cable that would be laid would be at the close proximity of the petitioner-applicant's deep tube well, which would be dangerous since cable-carrying electricity would be positioned near the source of water. Even apart from the said safety issues, the complication of laying cable across the service connection would be a direct impediment in giving such connection.

It is submitted that although the difficulty expressed was in respect of an adjacent premises, there is no structural demarcation between the present petitioner's premises and the said premises.

As such, it is not possible to give electricity service connection to the petitioner.

It is further contended that the pendency of the prior writ petition necessitates this Court to look into the said report filed in connection with the said writ application, although the present writ petitioner has purchased the property in the meantime.

It is argued by learned counsel for the CESC Limited that despite having explored all possibilities, no alternative route could be identified for giving service connection to the petitioner.

Learned counsel appearing for the private respondent no. 3 submits that there is no alternative route for giving service connection and it would be extremely hazardous to the private respondent in the event such service connection is given to the writ petitioner, particularly in view of the difficulties enumerated in the report of the CESC Limited filed in the other writ petition, that is, W.P. A. No. 11494 of 2020.

Learned counsel appearing for the petitioner, in reply, submits that there is an 8-feet wide passage, over or under which the service connection can be given.

Upon hearing learned counsel appearing for the parties and perusing the report filed in connection with the premises-in-question, which is structurally same as the one in which inspection was held, there appears to be no scope of giving any new electricity service connection to the petitioner.

Although the petitioner has duly filed an application and has a right to get electricity connection under Section 43 of the Electricity Act, 2003, such right is not unfettered and the scheme of the 2003 Act itself provides various safeguards and safety measures, which can be taken by the Distribution Licensee while considering an electricity connection being given to a proposed consumer.

In the present case, since the CESC Limited specifically objects to give the new service connection to the petitioner on concrete grounds of safety hazards, the relief as asked for in the writ petition cannot be granted.

Although the Court expresses full sympathy for the petitioner, who is allegedly a heart patient, the petitioner is also governed by the doctrine of *Caveat Emptor* and ought to have scrutinized the property prior to purchase, since the pendency of the prior writ petition at the behest of the erstwhile owner clearly shows that there was no electricity service connection to the premises-in-question at any point of time.

Hence, the writ petition fails.

Accordingly, W.P.A. No. 2284 of 2022 is dismissed on contest without, however, any order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities. .

(Sabyasachi Bhattacharyya, J.)