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02.03.2022
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WPA No.3375 of 2022

Subrata Saha
Vs.
Calcutta Electric Supply Corporation Limited
(CESC) and others

(Via Video Conference)

Mr. Subir Banerjee,
Mr. Sandip Bandyopadhyay
.... for the petitioner

Mr. Jayanta Kr. Dhar
.... for the CESC Limited

Mr. Asit Kr. Bhattacharya
.... for the private respondents

Learned counsel for the petitioner argues that, despite having purchased a shop room on the basis of a title deed, annexed to the writ petition, which further gave the petitioner easement rights for taking all sorts of connections, including electricity and water, the private respondents have been obstructing the CESC personnel from giving electric connection to the petitioner.

Learned counsel appearing for the private respondents controverts that the petitioner has any

right to the property, where the existing meter board is situated.

The primary objection of the private respondents is that the private respondents' possession in respect of their own adjacent shop room would be disturbed in the event a new loop meter is given to the petitioner from the existing meter board position.

Learned counsel for the CESC Limited categorically states that there is no objection, in principle, on the part of the CESC to give a new electric meter connection from the existing meter board position to the petitioner.

It appears from the contentions of the parties and the materials on record that the petitioner has been able to substantiate the petitioner's settled possession in respect of the shop room owned by the petitioner. Since Section 43 of the Electricity Act, 2003, read in conjunction with Article 21 of the Constitution of India, confer on a person in settled possession the right to have electricity connection to the premises, the private respondent, being merely an adjacent shop owner, is not entitled to obstruct such electric connection from being given to the petitioner. Although the private respondents have argued that the existing meter board position is situated within the premises of the private respondents and any new

metered connection from the same position would create disturbance and hazards for the private respondents, the same cannot be a sufficient ground to deny electricity supply altogether to the petitioner, particularly, since there is no alternative available, of giving a second service connection to the structurally same premises into which the petitioner and the private respondents' shop rooms have been built.

Although the private respondents are *prima facie* justified in contending that the respective shop rooms have different *Dag* numbers and have been recorded separately in the Municipal records, the same does not improve the situation for the private respondents, since the CESC has taken a specific stand that, from the technical point of view, the two shop rooms are structurally close enough to refuse a second service connection to the petitioner.

As the only available alternative to connect electricity to the petitioner's shop room is through the existing meter board position, WPA No.3375 of 2022 is disposed of by directing the CESC Limited to make an inspection and give electricity connection to the petitioner at the petitioner's shop room from the existing meter board position at the premises, subject to compliance of all formalities by the petitioner,

within a fortnight from date or the date of compliance of all formalities by the petitioner, whichever is later.

In the event the private respondent nos.3 and 4 and/or their men and agents create any obstruction to such inspection being taken and connection being given, the CESC personnel will be at liberty to approach the local police station for adequate police assistance. If so approached, the Officer-in-Charge/Inspector-in-Charge (as may be the case) shall immediately grant such adequate protection to the CESC personnel, at the cost of the petitioner, for the limited purpose of giving electricity connection from the existing meter board position and taking inspection, if necessary, to the petitioner.

In the event any padlock or other hindrance is put up by the private respondents to the access of the CESC personnel in reaching the existing meter board position at the relevant juncture of inspection and giving such electric connection, it will be open to the police personnel to break open such padlock and to take any other consequential action for the above limited purpose only.

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.)