

11th March,
2022
(AK)
03

W.P.A 4034 of 2022

Saral Kumar Mitra
Vs.
The Calcutta Electric Supply Corporation Ltd. and others

Mr. Tanmoy Mukherjee
Mr. Amar Kumar Halдар
Mr. Souvik Das
Mr. K. R. Ahmed
...for the petitioner.

Mr. Himadri Sikhar Chakraborty
Ms. Debdooti Dutta
...for the respondent no.4.

Mr. Dipankar Dhar
Mr. Rudra Dhar
...for the respondent nos.5 & 6.

Dr. Madhusudan Saha Ray
...for the CESC Limited.

The grievance of the writ petitioner is that, due to resistance being put up by the private respondent nos.5 and 6, who are the owners of the property, the petitioner is not getting electric connection from the CESC Limited.

It is further submitted that an agreement for sale was entered into between the petitioner and the respondent nos.5 and 6 and pursuant thereto, possession of a flat was given to the petitioner.

It is further submitted that despite such turn of events, the respondent nos.5 and 6 are not yet registering any deed of sale in his favour.

Learned counsel appearing for the private respondent nos.5 and 6 vociferously opposes the prayer of the petitioner and contends that the petitioner is abusing his office as a police officer and has been creating unnecessary nuisance against the private respondents.

Moreover, it is alleged by learned counsel for the private respondents that the latter have no objection to the petitioner continuing to enjoying electricity from his existing connection.

It is further alleged that the petitioner has been perpetrating several unlawful acts against the petitioner. Moreover, the possession of the flat was taken forcibly by the petitioner and not given by the private respondents on their own volition.

Learned counsel for the private respondent nos.5 and 6 further submit that in view of the absence of a registered deed in favour of the petitioner and/or formal allotment of the flat in the name of the petitioner, the petitioner is not entitled to the claim made in the writ petition.

Learned counsel also raises question as to mis-joinder of respondent no.3 who, according to learned counsel, is not a necessary party to the proceeding.

Learned counsel appearing for the CESC Limited corroborates the petitioner's stand, insofar as the private respondent nos.5 and 6 are creating hindrance in the CESC people giving connection to the petitioner.

Upon hearing the parties, it is crystal clear that the petitioner is in settled occupation of the flat. Although the legality of such possession has been questioned by the private respondent nos.5 and 6, it cannot be denied that the petitioner's physical possession itself has not been controverted by the private respondents.

Whatever rights, under the criminal and/or civil law, the private respondent nos.5 and 6 have, they will be at liberty to ventilate the infraction of such rights before appropriate criminal and civil forum/courts.

However, the right conferred on the settled occupier under Section 43 of the Electricity Act 2003 is unfettered by the purported lawfulness of such occupation. Thus, the private dispute between the private respondent nos.5 and 6 and the petitioner cannot come in the way of the petitioner having a new electricity connection at his flat.

Accordingly, WPA 4034 of 2022 is allowed, thereby directing the CESC Limited to give electricity connection to the petitioner, subject to compliance of all formalities, in the latter's name at the premises-in-question.

In the event any objection and/or resistance is created by private respondent nos.5 and 6 and/or their men and agents in giving such connection, it will be open to the CESC personnel to approach the Officer-in-Charge of the Muchipara Police Station (respondent no.4) for adequate police assistance.

In the event such an approach is made, respondent no.4 shall immediately extend such police assistance at the cost of the petitioner, for the limited purpose of giving access to the CESC personnel to give the new electricity connection in favour of the petitioner from the existing meter board position.

It is, however, made clear that the electricity connection, when given in the name of the petitioner, shall not create any special right or equity in favour of the petitioner apart from those legal rights which the petitioner already enjoys.

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