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21.03.2022
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WPA No.4225 of 2022

Sukhram Gupta
Vs.
CESC Limited and others

Mr. Dev Kumar Sharma

.... for the petitioner

Mr. Srijan Nayak

.... for the CESC Limited

Learned counsel for the petitioner argues that although the petitioner was previously enjoying electric connection from the meter of the petitioner's landlords (private respondent nos. 4 to 6), subsequently the said landlords of the petitioner severed the connection to the petitioner's tenanted portion.

It is contended that, under Section 43 of the Electricity Act, 2003, the petitioner, in the petitioner's capacity as a tenant of the premises, is entitled to get independent electric connection, irrespective of the prior existence of a meter in the name of the landlord.

Learned counsel for the petitioner, in this context, cites a coordinate Bench judgment of this court dated March 8, 2017 passed in *W.P. 19630(W) of 2016 [Syed Masihul Hassan vs. C.E.S.C. Limited & Ors.]* and argues that the learned Single Judge, in the said matter, had held that even distinct co-owners in respect of a property are entitled to enjoy electricity connections in their own names.

Learned counsel for the petitioner contends that, borrowing such ratio to the case of a tenant, the tenant is, in fact, on a better footing than a co-owner as far as the alleged nexus with the existing consumer is concerned.

Hence, it is submitted, the objection taken by the CESC Limited in giving a new electric connection to the petitioner on the score of intended splitting of load cannot stand the test of law.

Learned counsel appearing for the CESC Limited, by placing reliance on the averments made in paragraph no.4 of the writ petition, indicates that the petitioner was admittedly enjoying electricity through a sub-meter from the private respondents' meter.

It has further been alleged that the private respondents, with an intention to evict the petitioner unlawfully from the premises, have cut off such connection to the petitioner.

In conjunction with the said averments, where the petitioner admitted that the petitioner has been using electricity connection, learned counsel for the CESC Limited places reliance on the communication dated December 17, 2021 annexed at page-27 (Annexure-P5) of the writ petition, from which it is revealed that the CESC Limited had held a site inspection on December 13, 2021 and had observed that the writ petitioner is already deriving supply from one of the existing meters of the said premises.

In such view of the matter, it is submitted by learned counsel for the CESC Limited that the petitioner is attempting, by way of getting a new electric connection in his own name, to split the load, thereby achieving unlawful gain at the expense of the CESC Limited.

A perusal of the judgment of the coordinate Bench, cited by learned counsel for the petitioner, makes it abundantly clear that it had been held therein that Clause 14 of Regulation No.53 of the West Bengal Electricity Regulatory Commission cannot be activated in case of a co-owner.

However, the petitioner's contention that such ratio necessarily puts the tenant on a better footing, cannot be accepted.

Whereas, co-owners, while claiming parallel rights with other co-owners, makes such claim independently and not through the other co-owners, in case of an admitted tenant such as the present writ petitioner, the claim of the petitioner in respect of the property-in-question is patently through the landlords, by whom the tenancy has been given to the petitioner.

Hence, it cannot be accepted that the ratio enunciated by the coordinate Bench necessarily implies that a tenant is on a better footing than a co-owner inasmuch as the allegation of splitting of load is concerned.

That apart, the communication annexed at page-27 of the writ petition clearly mentions that, as per the officials of the CESC Limited, the site inspection dated December 13, 2021 revealed that the said unit as identified by the writ petitioner “is” already deriving supply from one of the existing meters of the said premises.

On such basis, the CESC Limited has raised a dispute as to splitting of load.

Since the present dispute of the petitioner is squarely against the private respondents, as allegedly the private respondents, and not the CESC Limited, cut off the electric supply to the petitioner’s portion of

the premises, the remedy of the petitioner for getting a direction on the landlords/private respondents to restore the electricity connection enjoyed by the petitioner from the landlords, lies before the civil court, where admittedly a suit is pending between the petitioner and the private respondents.

In the event, however, the petitioner is aggrieved by the ground of objection of the CESC Limited, that the petitioner intends to split the load in respect of the existing electricity meter by applying for a new connection in the petitioner's name, it will be open to the petitioner to approach the concerned Grievance Redressal Officer (GRO), who is the appropriate authority in law, to decide such dispute.

WPA No.4225 of 2022 is, accordingly, disposed of with the above liberties being given to the petitioner and subject to the above observations.

In the event the petitioner approaches the concerned GRO with the dispute of alleged splitting of load, the GRO shall decide the issue as expeditiously as possible in accordance with law upon hearing all the interested parties, including the petitioner and the private respondents, at the earliest, preferably within two months from the reference of the dispute to the GRO by the petitioner.

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.)