

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 4267 of 2022

Mahesh Singh
Vs.
Calcutta Electric Supply
Corporation & Ors.

Mr. Supratik Basu
...for the petitioner

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

Ms. Sutapa Sanyal,
Ms. Joyee Maity
...for the State

Mr. Amit Baran Dash,
Ms. Ankana Sarkar
...for the respondent no. 6

Learned counsel appearing for the petitioner contends that despite the petitioner having sought a new electricity connection at the premises-in-question, the same could not be given by the CESC Limited, primarily due to resistance put up by the private respondent.

Learned counsel appearing for the CESC Limited submits that the CESC Limited did its level best and found that the connection was feasible. However, due to resistance created at the property, the same could not be given to the petitioner. On principle, the CESC Limited has no objection to give such connection to the petitioner.

Learned counsel appearing for the State submits that when police help was sought by the CESC personnel, the same was duly provided by the State.

Upon consideration of the interim order passed by the civil court, where a suit is pending between the private parties, bearing Title Suit No. 6754 of 2014, it transpires that an application filed by the present writ petitioner under Section 151 of the Code of Civil Procedure was decided by the order dated February 24, 2020. The prayer made in the said application by the petitioner was that the private respondent and his men and agents be restrained from creating any obstruction at the time of inspection and/or installation of the new electricity meter at the scheduled premises by which the defendant may get electricity.

However, the competent civil court taking up the suit, being the Fifth Civil Judge (Junior Division) at Alipore, vide order dated February 24, 2020, refused such prayer of the petitioner upon arriving at the conclusion that the records showed that the defendant, that is, the present petitioner, had not filed any scrap of document from which it could be ascertained that the petitioner is residing at the suit premises. It was, accordingly, held by the civil court that the question of installation of electricity meter, therefore, did not arise.

Although the petitioner otherwise had the right to get a electricity connection within the contemplation of

Section 43 of the Electricity Act, 2003, in view of the specific order of refusal of a similar prayer by the civil court, which has attained finality in the absence of any challenge thereto, the Writ Court, in all propriety, ought not to reverse such order of the civil court.

In view of the above reason, the prayer for independent electricity connection made by the petitioner in the writ petition cannot but be refused. W.P.A. 4267 of 2022 is, accordingly, dismissed.

However, it is made clear that this order shall not debar the petitioner from subsequently challenging the order of the civil court in any appeal, which might ultimately be preferred from the decree passed in the suit or the connected counter claim, citing the same as a ground of the said appeal.

In any event, if such order is reversed by any superior forum, it will be open to the petitioner to apply afresh for electricity connection in his own name at the disputed property.

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.)