

06
18.04.2022
TN

WPA No. 4766 of 2022

Md. Younus Ali @ Sk. Younus
Vs.
Calcutta Electric Supply Corporation Limited
and others

Mr. Pradip Kumar Kundu
.... for the petitioner

Mr. Suman Ghosh
.... for the CESC Limited

Mr. Supratick Syamal,
Mr. Anirban Tribedi
.... for the private respondents

Learned counsel for the petitioner contends that despite the petitioner having complied with all preliminary formalities, the Calcutta Electric Supply Corporation Limited (for short “the CESC Limited”) is not being able to give new electricity service connection to the petitioner at the premises-in-question, of which the petitioner is the owner, due to objection being raised by the private respondent nos.4 to 6.

Learned counsel for the CESC Limited submits that for the purpose of laying the necessary cables to give electricity service connection to the petitioner, such cables have to be laid under a passage running adjacent to the petitioner's property. Although there is an existing water connection under the said passage, there is no impediment for the CESC Limited to give the electricity connection under the same passage, it is further submitted.

Learned counsel appearing for the private respondents submits that the proposed path of taking the electricity connection to the petitioner's property is the private property of the private respondents, of which the private respondent nos.4 to 6 are the owners by virtue of a title deed.

It is submitted further by learned counsel for the private respondents that, in the garb of laying electricity connection, the petitioner is trying to encroach upon the exclusive property of the private respondents, over which the petitioner does not have any right whatsoever.

Although learned counsel for the private respondents seeks opportunity to use an affidavit-in-opposition for the purpose of satisfying the court as regards the right, title and interest of the private respondents in respect of the passage-in-question,

such leave is refused since, in exercise of jurisdiction under Article 226 of the Constitution of India, this court ought not to decide the respective contentions of the private parties with regard to their right, title and interest in the common passage, which requires adduction of detailed evidence and is solely within the domain of a competent civil court.

However, since the petitioner has a right under Section 43 of the Electricity Act, 2003 to get an electricity connection, including a service connection, in the petitioner's name at his premises, WPA No.4766 of 2022 is disposed of by directing the CESC Limited to give the new service connection to the petitioner, as per the petitioner's application, by laying necessary cables for the said purpose underneath the disputed passage, subject to compliance of all formalities by the petitioner, within May 20, 2022.

The CESC Limited shall endeavour to finish the necessary work of laying cables under the passage-in-question latest by May 13, 2022. In the event any obstruction is offered by the private respondents in so doing, it will be open to the CESC personnel to approach the respondent no.3 herein, that is, the Inspector-in-Charge of the Budge Budge Police Station who, upon such approach being made, shall provide adequate police assistance for the limited purpose of

laying such connection and giving service connection to the petitioner, at the cost of the petitioner.

It is further clarified that during the entire process of laying cables under the passage-in-question, the CESC Limited shall leave open adequate passage for ingress and egress to the properties of the petitioner and the private respondents, at all material times.

The petitioner shall not claim any special right or equity over the passage by virtue of laying of such electric cable beneath the same for the purpose of giving service connection.

The parties shall act on the written communication by 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 certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)