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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 7157 of 2021

(Via Video Conference)

Shreemani Misra

-vs.-

The CESC Limited & Ors.

Mr. Pradeep Kumar

...for the petitioner

Mr. Debanjan Mukherjee

...for the CESC Limited

Ms. Sudipa Roy,

Mr. Srinath Singha Roy

...for the State

Mr. Sunny Nandi,

Mr. Tamal Singha Roy,

Mr. Subha Pathak

...for the private respondents

Learned counsel for the petitioner argues that due to resistance created by the private respondents, the CESC Limited has not given new electric connection in the name of the petitioner at the premises-in-question.

Learned counsel for the CESC Limited submits that there are arrear dues to the tune of Rs. 21,825/- in respect of the previously defaulting electric meter in the name of the petitioner's son at the premises-in-question itself. It is submitted that subject to the *prima facie* possession of the petitioner having been proved and

clearance of all dues as well as compliance of all formalities as required by law, there is no objection, in principle, on the part of the CESC Limited to give such connection.

Learned counsel appearing for the private respondents, however, categorically submits that the petitioner is not and has not been in possession of the disputed property at any point of time and, as such, is not entitled to get electric connection at the premises at all.

However, from the perusal of the materials on record, it appears that a civil suit is pending at the instance of the petitioner against the private respondents, in connection with which an ad interim order of *status quo* was passed against the private respondents by the civil court. Subsequently, an order of police help was granted by the civil court for implementing its order of injunction protecting the purported possession of the petitioner.

In such view of the matter, a *prima facie* proof of possession has been produced by the petitioner, by way of the orders passed by the civil court as well as a rent receipt produced by the petitioner, although the veracity of such receipt is disputed by the private respondents.

In such view of the matter, the provisions of Section 43 of the Electricity Act, 2003 apply in the

instant case and the petitioner is entitled, subject to compliance of all formalities, to get an electric connection in his own name at the premises-in-question.

Hence, W.P.A. No. 7157 of 2021 is disposed of by directing the CESC Limited to give a new electric connection at the disputed premises in the name of the petitioner, subject to clearance by the petitioner of all arrear dues in respect of previously defaulting electric meter standing in the name of the petitioner's son at the same premises and subject to compliance of all legal formalities by the petitioner, preferably within three weeks from the compliance of such requirements.

In the event any resistance is put up to the CESC personnel in giving such connection, the CESC personnel will be entitled to approach the respondent no. 7, that is, the Officer-in-Charge of the Golabari Police Station, District-Howrah, for adequate police assistance, at the cost of the petitioner.

If so approached, the respondent no. 7 shall give such police protection as required for the above purpose.

The police personnel will be at liberty to break open any padlock or other resistance to the access of the CESC personnel, if so faced at the time of giving such new connection to the petitioner, subject to the aforesaid compliance.

It is, however, made clear that it will be open to the private respondents as well as the petitioner to ventilate all grievances and agitate their respective rights and contentions in respect of the disputed property before the competent civil court, without being prejudiced in any manner by any of the observations made herein.

If such arguments are advanced, the civil court will be free to decide the suit and the interlocutory applications in connection therewith in accordance with law, without being influenced by any of the observations made herein.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)