

5th May,
2022
(AK)
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W.P.A 6040 of 2022

Sabana Begum
Vs.
CESC Limited and others

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
...for the petitioner.

Mr. Brotindro Mullick
...for the CESC Limited.

Learned counsel for the petitioner contends that due to the resistance put up by the respondent no.4/landlord, the petitioner is not getting new electricity supply, since the CESC personnel are being obstructed from giving such connection.

Learned counsel appearing for the CESC Limited corroborates that the CESC personnel, although finally could take the inspection, are now being unable to give the new connection to the petitioner in her name due to resistance being put up by the respondent no.4 and his men and agents.

Learned counsel appearing for the respondent no.4 contends that there are huge dues in respect of the occupation of the petitioner of the suit property towards the respondent no.4/landlord.

It is submitted that a suit is also pending at the behest of the landlord. It is further contended that the

petitioner, after the expiry of the statutory period of five years post-demise of the original landlord, that is, the husband of the petitioner, has been rendered a mere trespasser and has no legal right as a tenant to continue her occupation of the suit property.

Learned counsel for the petitioner at this point of time, submits that a previous suit filed by the predecessor-in-interest of the respondent no.4 against the predecessor-in-interest of the petitioner was observed to have been dismissed as abated by the Civil Court.

Learned counsel for the private respondent adds at this point of time that another application of a different tenant under another co-owner of the respondent no.4, in respect of the same premises, was refused such connection by the CESC Limited, inter alia, on the ground that such connection was being made with the intention of splitting the existing load and that, due to technical considerations, it was extremely dangerous to have more than one source of supply for a particular unit as it might lead to fire and electrical hazards.

However, in the present case, the CESC has already taken an inspection and there is otherwise no bar in giving such connection to the petitioner, subject to the petitioner complying with all formalities, in view of the right conferred upon the petitioner to get such connection under Section 43 of the Electricity Act, 2003.

That apart, irrespective of the effect of the pendency of the civil suit, the giving of a new electricity connection in the name of the petitioner would not create any special right or equity in favour of the petitioner in any event.

Moreover, merely because the CESC Limited previously refused electricity connection to another tenant of another co-owner, although in respect of the self-same premises, the CESC and/or the present writ petitioner, the latter not being a party to the said rejected application, are not bound by the said refusal insofar as the new connection of the petitioner is concerned.

Secondly, the ground realities and factual circumstances as regards the proposed usage of the petitioner of electricity and the total load of the existing meter board position in respect of the present writ petitioner may very well differ from that of the previous applicant whose application was dismissed.

Thirdly, the CESC had refused a previous connection to another person on the ground that, due to technical considerations, it was extremely dangerous to have “more than one source of supply for a particular unit”.

What the petitioner is now wanting is not a different service connection but a separate electricity connection by installation of a meter in the petitioner’s own name from the existing meter board position.

In such view of the matter, WPA 6040 of 2022 is allowed, thereby directing the CESC Limited to give the electricity connection as applied for by the petitioner, subject to compliance of all formalities by the petitioner, as expeditiously as possible, preferably within one week from date.

It is made clear that such electricity connection shall not create any special right or equity in favour of the petitioner and shall be without prejudice to the rights and contentions of the petitioner and the respondent no.4 in the civil suit pending between the parties and/or in any other proceeding, if pending or filed in future.

In the event any obstruction is faced by the CESC personnel at the time of giving such connection to the petitioner, either from the respondent no.4 and/or his men and agents or from any other quarter, it will be open to the CESC personnel to approach the respondent no.3, the Officer-in-Charge of the Watgunge Police Station, for adequate police assistance for the purpose of giving such connection.

If so approached, the respondent no.3 shall act on a written communication of the learned advocate for the petitioner, coupled with server copy of this order, without insisting upon prior production of a certified copy, and grant such police help at the cost of the petitioner.

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.)