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10.05.2022  
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WPA No.6788 of 2022

Sanjay Kumar Jaiswal and others  
Vs.  
The Calcutta Electric Supply Corporation  
Limited and others

Mr. Debarshi Brahma,  
Mr. S. Choudhury  
.... for the petitioners

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

Md. Mansoor Alam  
.... for the State

Mr. Dyutimoy Paul,  
Mr. Anjan Ganjan  
.... for the respondent no.5

Learned counsel for the petitioners contends that, due to the objection raised by the respondent no.5/landlord, the Calcutta Electric Supply Corporation Limited (for short “the CESC Limited”) are not being able to give a new electricity connection in the name of the petitioners.

Learned counsel appearing for the CESC Limited submits that when the CESC personnel went for an inspection in that regard, they were resisted by the private respondent and his men and agents.

Learned counsel appearing for the private respondent submits that due to the default of the

petitioner in payment, the outstanding dues in respect of the sub-meter, being used by the petitioners, have fallen due. It is contended that, although the meter and sub-meter stand in the name of the private respondent, the said sub-meter has been exclusively used by the petitioner without the petitioner making any payment in that regard.

Learned counsel for the private respondent/landlord cites two judgments of this court, passed by coordinate Benches, reported respectively at 2017 SCC OnLine Cal 2963 [*Netai Lal Jana vs. The Chairman, Calcutta Electric Supply Corporation & ors.*] and 2021 SCC OnLine Cal 2763 [*Nisha Tamang vs. State of West Bengal and Others*], in both of which the learned Single Judges directed the person wanting the electricity supply to clear the outstanding dues to the Distribution Licensee.

Upon hearing learned counsel for the parties, it is seen that the possession of the petitioners in respect of the property-in-dispute has not been specifically contested by the private respondent.

As such, under Section 43 of the Electricity Act, 2003, the petitioners have a right to get an electricity connection in their own names at the premises where they are residing.

It is reiterated by learned counsel for the CESC Limited that the private respondent/landlord is liable, as a consumer, to pay the outstanding dues in respect of the existing meter.

Although there is a dispute regarding the liability to pay such outstanding amount *inter se* the private respondent and the petitioners, inasmuch as both the parties claim that the other has a liability to clear off such dues, in view of the law conferring a right on the settled occupier to get an electricity connection in his own name at the premises, there cannot be any impediment to an electricity connection being given in the name of the petitioners at the premises.

In such view of the matter, since the right of the petitioners to get an electricity connection in their names at the premises is independent of the *inter se* claims of dues between the private respondent no.5 and the petitioners, WPA No.6788 of 2022 is disposed of by directing the CESC Limited to hold an inspection for the purpose of ascertaining the feasibility of giving an electricity connection in the name of the petitioners at the premises from the existing meter board position. If the CESC finds such new connection to be feasible otherwise, the same shall be given by the CESC Limited to the petitioners, subject to compliance

of all formalities by the petitioners in that regard, from the existing meter board position at the premises.

In the event the CESC personnel face any obstruction from the private respondent no.5 and/or his men and agents in holding such inspection and/or giving such connection, if found feasible, it will be open to the CESC personnel to approach the respondent no.4, that is, the Inspector-in-Charge of the Malipachghara Police Station for adequate police assistance in that regard. If so approached, the respondent no.4 shall give such assistance, at the cost of the petitioners, for the limited purpose of enabling the CESC personnel to hold an inspection and to give an electricity connection in the name of the petitioners, if found feasible and subject to compliance of all formalities by the petitioners.

Such inspection shall be held within a week from date and, if found feasible, the electricity connection shall be given in the name of the petitioners within a fortnight thereafter.

In the process of giving such police help, if necessary, the police authorities are given the liberty to break open any padlock or other hindrance to the access of the CESC personnel to the existing meter board position for the above purposes.

It is, however, made clear that nothing in this order shall prejudice the rights and contentions of the private respondent no.5 and/or the petitioners in the civil suit pending between the said parties and/or before any other legal forum, including the dispute as regards the alleged liability of the petitioners in respect of the user of electricity at the premises to the respondent no.5.

It will be open to all legal forums to arrive at independent findings in accordance with law on such aspect of the matter, without being influenced in any manner by any of the observations made herein.

It is further clarified that the electricity connection, if given, shall not create any special right and/or equity in favour of the petitioners.

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.)