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09.06.2022
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WPA No.8803 of 2022

Sri Lakhan Mondal
Vs.
CESC Limited and others

Mr. Prasad Bagchi,
Ms. N. Mukherjee

.... for the petitioner

Mr. Suman Ghosh

.... for the CESC Limited

Mr. Sanjib Kumar Ghosh

.... for the respondent no.9

Affidavit-of-service filed in court today be kept
on record.

Learned counsel for the petitioner submits that
despite the petitioner having complied with necessary
formalities, the CESC Limited has not yet given new
service connection to the petitioner.

Learned counsel for the CESC Limited contends
that due to resistance put up by the private
respondent nos. 6 to 10, such connection could not be
given as yet, although the formalities required have
been complied with by the petitioner.

Learned counsel appearing for the respondent
no.9 submits that the said respondent has four-fold
objections to the connection being given.

First, the land-in-question, where the connection has been sought, is not a *bastu* land but a *sali* land (agricultural land). Secondly, in a criminal case filed in connection with a land, a Police report has been filed, which indicates that there is a dispute between the petitioner and the private respondent no.9. Thirdly, that an application filed by the petitioner for getting electricity connection at the premises was rejected by the appellate court in connection with an appeal preferred by the private respondent no.9 against a dismissal of the said respondent's suit for declaration of title against the writ petitioner.

It is further submitted that the petitioner is already enjoying another domestic connection at the premises and, as such, no further connection can be given to the petitioner.

Such contentions are controverted by learned counsel for the petitioner, who submits that not the petitioner, but the petitioner's father had enjoyed an electricity connection at the premises.

That apart, a title suit was filed by the respondent no.9 against the petitioner which was dismissed. Thereafter, a title appeal filed by the plaintiff therein, against such dismissal, was also turned down.

Upon hearing learned counsel for the parties, it is apparent that although the respondent no.9 seeks to prefer a second appeal against the dismissal of the petitioner's suit by the trial court as well as the first appellate court, no such appeal has been filed as yet, let alone any stay order being passed in connection therewith.

As it stands today, the rights claimed by the respondent no.9 in the suit property vis-à-vis the writ petitioner were turned down by two forums – being the trial court and the first appellate court.

Hence, as of today, the respondent no.9 cannot claim any right or title in the property against the writ petitioner.

That apart, it is not the look-out of the respondent no.9, whether the petitioner is enjoying another domestic connection and the same debars the petitioner from taking the present service connection. It is for the CESC Limited to decide on the same and, since the CESC Limited does not raise any objection on such score, the said objection has to be turned down.

Thirdly, as apparent from the submission of learned counsel for the respondent no.9, the rejection of electricity connection application by the first appellate court was on the premise that the ownership

and possession of the property were yet to be decided by the court. However, such question has become academic now in view of dismissal of the suit filed by the respondent no.9 by both the courts below.

Insofar as the question as to whether the property is a *sali* (agricultural) land or not, it is not the subject-matter of contention in the present writ petition. The said factor cannot be a consideration for deciding the right of the writ petitioner to get electricity connection at the premises under Section 43 of the Electricity Act, 2003.

In such view of the matter, there is no impediment in granting the relief as prayed for by the petitioner.

Accordingly, WPA No.8803 of 2022 is allowed, thereby directing the CESC Limited to give service connection to the petitioner as expeditiously as possible, preferably within three weeks from date.

In the event the CESC personnel face any obstruction from the private respondents and/or their men and agents in giving such connection, it will be open to the CESC personnel to approach the Officer-in-Charge, Thakurpukur Police Station (respondent no.5 herein) for adequate police assistance in that regard. If so approached, the respondent no.5 shall give such assistance to the CESC personnel at the

cost of the petitioner for the purpose of giving the service connection to the petitioner at the premises.

If any padlock or other hindrance is put up on the way of access of the CESC personnel to the location where the connection is to be given, it will be open to the police personnel to break open the padlock or remove the hindrance for the limited purpose of giving such service connection to the petitioner.

It is made clear that the rights and contentions of the parties have not been gone into by this court on merits.

The parties shall act on the written communication of the learned Advocate for the petitioner, accompanied by 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.)