

11
20.06.2022
TN

WPA No. 9261 of 2022

Sunanda Das
Vs.
Calcutta Electricity Supply Corporation
Ltd. and others

Mr. Falguni Bandyopadhyay,
Ms. Sreetama Neogi,
Ms. Riya Ballav

.... for the petitioner

Mr. Anirban Mitra

.... for the CESC Limited

Mr. Amar Nath Das,
Ms. Pampa Ghosh

.... for the respondent nos.3 to 5

Mr. Dwarikanath Mukherjee,
Mr. Maniklal De

.... for the State

Learned counsel for the petitioner contends that the petitioner is in possession of the disputed premises upon the property having been settled in her favour by the respondent no.3. However, despite compliance of all formalities in that regard, the Distribution Licensee, that is, the Calcutta Electricity Supply Corporation Ltd. (for short “the CESC Limited”) is not giving new electricity connection to the petitioner.

Learned counsel appearing for the CESC Limited submits that although the petitioner has complied with formalities, due to resistance created by the private respondent nos.3 to 5, the said connection cannot be given to the petitioner.

Learned counsel appearing for the respondent nos.3 to 5 submits that the respondent no.3, who is an octogenarian, never executed any agreement for transferring the property or settling the same in favour of the petitioner. It is further alleged that the purported agreement for 'Selami', annexed at page-13 of the writ petition, was manufactured and/or obtained by fraud.

Such contention is squarely controverted by learned counsel for the petitioner, who relies on a purported letter dated March 11, 2022, wherein the respondent no.3 declared that the previous letter of objection, issued in the name of the said respondent, was given fraudulently by someone else and disowned such objection.

Since specific allegations and counter-allegations have been raised by the petitioner and the private respondents in respect of the right, title, interest and possession of the property, the writ court is not the appropriate forum for deciding such issue on taking evidence.

Learned counsel for the CESC Limited, at this juncture, submits that it has come to the notice of the CESC Limited that an eviction suit bearing Title Suit No.94 of 2021 is pending before the learned Civil Judge (Junior Division), Second Court at Sealdah against the petitioner.

Be that as it may, as observed above, the dispute is beyond the purview of the writ court.

Accordingly, WPA No.9261 of 2022 is disposed of by granting liberty to the petitioner to refer the dispute to the concerned District Magistrate. If so referred, the District Magistrate shall decide the said issue, upon giving adequate opportunity of hearing to the petitioner, the CESC Limited as well as the private respondent nos.3 to 5 in accordance with law without being influenced in any manner by any of observations made herein, independently and on its own merits, positively within six weeks from the date of such reference to the District Magistrate.

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.)