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08.06.2022.
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 9640 of 2022

M/s Spinwell Private Limited & Anr.

-vs.-

Calcutta Electric Supply
Corporation & Ors.

Mr. Emon Bhattacharya,
Ms. Pooja Sah

...for the petitioners

Dr. Madhusudan Saha Roy

...for the CESC Limited

Ms. Mitali Mukherjee

...for the State

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

Learned counsel appearing for the petitioners
submits that the petitioner no. 1, of which the petitioner
no. 2 is a Director, was a tenant in respect of a
particular premises under the erstwhile landlord.
Subsequently, however, the landlord transferred the
property to the respondent-Waqf Estate, that is, the
respondent no. 5.

The Mutawalli, the respondent no. 6,
subsequently had the name in respect of the electricity
meter transferred from the name of the erstwhile
landlord of the petitioner to the Waqf Estate and,

thereafter, disconnected the petitioners' electricity supply.

The petitioner no. 1 seeks an independent new electricity connection in its own name. It is further disclosed that an eviction suit has been instituted against the petitioner no. 1 at the behest of the Waqf Estate.

Learned counsel appearing for the Distribution Licensee, that is, the CESC Limited submits that initially there was a high-tension line given to the premises-in-question, but, subsequently, on the application of the consumer, the same was converted into low-tension connection. That apart, it is submitted that the new connection could not be given to the petitioners due to an objection letter written on behalf of the Waqf Estate, which is annexed at page 60 of the writ petition.

Learned counsel points out the refusal letter of the CESC Limited, annexed at page 59 of the writ petition, indicating such reason.

Upon hearing learned counsel appearing for the parties, it is evident that an eviction suit has been instituted by the Waqf Estate against the petitioner no. 1 on the allegation that the petitioner no. 1 is a trespasser in the property.

The petitioners, on the other hand, claims tenancy right. Even without going into the question of

the petitioners' nature of occupation in the property, it is amply clear, even from the admission of the Waqf Estate in the plaint of the eviction suit, that the petitioner no. 1 is in settled occupation of the premises, in whatever capacity.

Hence, under Section 43 of the Electricity Act, 2003 the petitioner no. 1 has a legal right to get electricity connection at the premises-in-question.

In the present case, however, there is no scope of any nexus or apprehended splitting of load and the same has rightly not been set up by the CESC Limited by way of objection, since the petitioner no. 1 claims a right independent from that of the Waqf Estate.

Hence, since the petitioner no. 1 has a right, as indicated above, there is no impediment on the part of the CESC Limited, despite the objection raised by the Waqf Estate, to give a new electricity connection to the petitioners.

Accordingly, W.P.A. No. 9640 of 2022 is disposed of by directing the CESC Limited to act on the application for electricity connection of the petitioners and give such connection at the earliest, subject to compliance of all formalities by the petitioners, preferably within a week from compliance of such formalities. It is further made clear that the electricity connection shall not confer any special equity or right in favour of the petitioners and it will be open to the Waqf

Tribunal and all other forums to adjudicate on the question of the respective rights, titles and interests of the petitioners vis-à-vis the Waqf Estate and the Mutawalli independently, without being influenced in any manner by the observations made herein.

In the event the CESC personnel face any resistance from the respondent nos. 5 and 6 and/or from any other quarter in taking necessary inspection and giving electricity connection upon compliance of formalities by the petitioners, it will be open to the CESC officials to approach the respondent no. 4, that is, the Officer-in-Charge, Chitpur Police Station for necessary police assistance.

If so approached, the respondent no. 4 shall provide adequate police assistance to the CESC personnel at the cost of the petitioners.

The police will be at liberty to break open any padlock or other hindrance in the way of the CESC personnel reaching the existing meter board position for taking inspection and/or giving new connection to 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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)