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22.06.2022.
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 10364 of 2022

Automatic Tent Manufacturing
Company & Ors.

-vs.-

CESC Limited & Ors.

Mr. Suchayan Banerjee,
Mr. Debsoumya Basak
...for the petitioners

Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Manas Kundu,
Mr. Subrata Dasgupta
...for the State

Sk. Md. Galib
...for the respondent no. 5

Mr. Amit Meharia,
Ms. Paramita Banerjee,
Ms. Amrita Das,
Ms. Ambalika Deb Roy
...for the respondent no. 6

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

Although the petitioners and other respondents are
represented through counsel, the respondent no. 4 is not.

It appears from the envelope sent to the said
respondent that it was returned with the endorsement
“Out of station, hence left”.

Learned counsel appearing for the petitioners points
out that the service was sought to be effected at the

address of the respondent no. 4 as given in the plaint of a pending civil suit which has been instituted by the respondent no. 4 itself.

Hence, it is assumed that the respondent no. 4 is deliberately avoiding service.

The grievance of the petitioners is that, due to resistance being put up by the respondent no. 4, who is the plaintiff in an eviction suit, that is, Suit No. 16 of 2022, pending in the Waqf Tribunal, West Bengal, the CESC Limited is not being able to give a new electricity connection to the petitioners, despite the petitioners having applied for the same.

Learned counsel appearing for the respondent no. 5, the Board of Waqf, contends that although the property was under the control of the Board of Waqf, the respondent no. 4 has, in fact, initiated a suit claiming to be the recorded Mutawalli vide resolution dated September 02, 2020 in respect of the respondent no. 4 Waqf Estate, to the said property.

Learned counsel appearing for the CESC Limited submits that both the respondent nos. 4 and 5 have been resisting the CESC personnel in holding an inspection for the purpose of ascertaining the feasibility of giving a new electricity connection to the petitioners.

It transpires from the plaint of Title Suit No. 16 of 2022 pending before the Waqf Tribunal, West Bengal, that the respondent no. 4, that is, Nawab Sultanat Ara Munni

Begum Wakf Estate, has instituted the said suit for recovery of possession on the allegation that the present writ petitioner no. 1 is a trespasser in respect of the property. In the said suit, in paragraph 2 of the plaint, the respondent no. 4/plaintiff has claimed that the plaintiff is the recorded Mutawalli vide resolution dated September 02, 2020 in respect of Nawab Sultanat Ara Munni Begum Waqf Estate, lying and situated at 6, Dilarjung Road, Kolkata-700 002 and being enrolled with the Board of Waqf, West Bengal and enumerated as E.C. No. 3058.

Since the respondent no. 4 has filed a suit for eviction of the petitioners, there cannot be any doubt that the respondent no. 4/plaintiff is admitting that the petitioners are in physical occupation of the disputed property, in whatever capacity, trespassers or otherwise.

It is well-settled that a settled occupant of a property is entitled to get electricity connection under Section 43 of the Electricity Act, 2003. In the present case, irrespective of the respective contentions and claims of the respondent no. 4 and the petitioners against each other in the pending civil suit before the Tribunal, the petitioners are, irrespective of the objection of the respondent no. 4, entitled to get a electricity connection in the petitioners' name, subject to an inspection being held by the CESC Limited and raising a quotation by the said authority as well as subsequent compliance of all

formalities and deposit of quotation amount by the petitioners.

In such view of the matter, W.P.A. No. 10364 of 2022 is allowed, thereby directing the CESC Limited, that is, the respondent no. 1, to hold an inspection in respect of the disputed property for the purpose of ascertaining the feasibility of giving a new electricity connection to the petitioners, as per their application for such purpose, within a fortnight from date, upon prior notice to the respondent no. 4 as well as the petitioners.

Upon such inspection, in the event the CESC Limited comes to the conclusion that a new electricity connection is otherwise possible to be given to the petitioners, the CESC Limited shall, at the earliest, raise a quotation for such purpose and upon compliance of all formalities by the petitioners, including deposit of the quotation amount, the CESC Limited shall give a new electricity connection to the petitioners within a week from the compliance of all formalities by the petitioners.

In the event the CESC personnel face any obstruction from any quarter, including the respondent no. 4 and/or its men and agents, at the time of either holding such inspection or while giving such connection, it will be open to the CESC personnel to approach the respondent no. 3, that is, the Officer-in-Charge, Chitpur Police Station, for adequate police assistance in that regard.

If so approached, the respondent no. 3 shall provide such police assistance at the cost of the petitioners.

In the event any padlock and/or other hindrance is put up on the way of access of the CESC personnel to the existing position where the new electricity meter for the purpose of giving connection to the petitioners is to be installed, the police personnel will be free to break open such padlock and/or remove such hindrance for the limited purpose for allowing the CESC personnel to hold such inspection and, thereafter, in the event the CESC personnel seek police help for the purpose of giving electricity connection to the petitioners, for such purpose.

It is further clarified that the new electricity connection in favour of the petitioners shall not, by itself, create any special equity, right, title and/or interest in respect 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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)