

21st June,
2022
(AK)
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W.P.A 10429 of 2022

Sumana Nag
Vs.
The Calcutta Electric Supply Corporation Limited and
others

Ms. Sayanti Santra
...for the petitioner.

Mr. Aafreen Perveen
...for the respondent nos. 5 and 6.

Mr. Rajiv Lall
...for the CESC Limited.

Learned counsel for the petitioner contends that the petitioner is a *bona fide* tenant in respect of the premises and is entitled to a new electricity connection.

The petitioner has been a tenant under the respondent nos.5 and 6 in respect of the disputed property.

Initially an electricity connection existed in the name of the mother of respondent nos.5 and 6 which has, subsequently, been disconnected at the behest of respondent nos.5 and 6.

It is submitted that a suit is pending before the competent civil court at the instance of the petitioner, inter-alia, for declaration of the petitioner's tenancy right in respect of the premises, in which an injunction order has been passed restraining the private respondent nos.5 and 6 from disturbing the peaceful possession of the

petitioner in respect of the premises in her occupation and from dispossessing the petitioner.

Learned counsel appearing for the private respondents disputes the factual contentions of the petitioner and submits that the petitioner is or was not a tenant in respect of the premises-in-question, and, as such, is not entitled to get an electricity connection in her own name.

Learned counsel appearing for the CESC Limited contends that, subject to compliance of all formalities by the petitioner, the CESC Limited has no impediment otherwise in giving such new connection to the petitioner.

However, it is pointed out by learned counsel for the CESC Limited that there is an outstanding due of about of Rs.8,000/- approximately, in respect of a different flat at the same premises.

Upon hearing learned counsel for the parties, it is evident that the petitioner is in admitted possession of the suit property, although the nature of such possession and legality thereof is controverted by the private respondent nos.5 and 6.

As is well-settled, a person in settled occupation of a premises is entitled under Section 43 of the Electricity Act, 2003 to get independent electricity connection at the premises.

Moreover, since there is a subsisting order of injunction restraining the private respondents from

disturbing the peaceful possession of the petitioner in respect of the property, in which there is a subsisting *prima facie* finding by a competent civil court as regards the possession of the petitioner.

That apart, the outstanding dues in respect of a separate flat do not directly affect the right of the petitioner, having no apparent nexus with the erstwhile consumer in respect of the defaulting meter, to get a new electricity connection in the petitioner's own name.

Accordingly, WPA 10429 of 2022 is allowed, directing the CESC Limited to give a new electricity connection to the petitioner at the premises-in-question, subject to compliance of all formalities by the petitioner, preferably within a fortnight from the compliance of such formalities.

In the event the CESC face any obstruction from the private respondent nos.5 and 6 and/or their men and agents in giving such connection to the petitioner, it will be open to the CESC personnel to approach the respondent no.4, the Officer-in-Charge of the Lake Town Police Station, for adequate police assistance.

If so approached, respondent no.4 shall grant such police assistance at the cost of the petitioner for the limited purpose of giving electricity connection to the petitioner.

It is, however, made clear that the merits of the respective rights and contentions of the petitioner and the

private respondents in the pending civil suit have not been entered into by this court and it will be open to the civil court to decide such issues independently in accordance with law, without being influenced in any manner by any of the observations made herein.

It is further clarified that, for giving the new electricity connection to the petitioner, in the event of compliance of all formalities by the petitioner, the CESC will be entitled to take all necessary steps leading thereto, including raising an offer letter and installing a new meter for supply of electricity from the existing service connection.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)