

18
30.06.2022
TN

WPA No. 11969 of 2022

Agarwal Industries
Vs.
CESC Limited and others

Mr. Suchayan Banerjee,
Mr. Debsoumya Basak,
Mr. Viswajit Neogi

.... for the petitioner

Mr. Jayanta Kumar Dhar

.... for the CESC Limited

Mr. Ananda Dulal Sarkar

.... for the State

Sk. Md. Galib

.... for the Board of Auqaf /
respondent no.5

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

Despite service, none appears for the private
respondent/mutawalli, although the CESC Limited,
the State and the Board of Auqaf are represented
through counsel along with the petitioner.

The grievance of the petitioner is that due to
resistance created by the respondent no.4, who is the
plaintiff in an eviction suit, bearing Suit No.13 of
2022, pending in the Wakf Tribunal, West Bengal, the

CESC Limited is not being able to give a new electricity connection to the petitioner.

Learned counsel for the CESC Limited submits that the petitioner had applied for a new electricity connection but the same had been refused by the CESC Limited on the ground that the application had been made for a low-tension connection but there was already an existent high-tension supply at the premises.

As such, in the event a low-tension connection is applied for by the petitioner, the CESC Limited is willing to give the same subject to compliance of all formalities by the petitioner otherwise.

Learned counsel appearing for the Board of Auqaf submits that the property was under the control of the Board of Auqaf, but the respondent no.4 has initiated a suit claiming to be the recorded mutawalli of the property-in-question.

It appears from the plaint of the aforementioned suit, pending before the Tribunal, that the respondent no.4 has instituted the same for recovery of possession on the allegation that the writ petitioner is a trespasser in respect of the property. In the suit, the respondent no.4 has also claimed that the said respondent (plaintiff in the suit) is the recorded

mutawalli vide a particular resolution as indicated in the plaint.

Since the respondent no.4 has filed a suit for eviction, it is evident that the said respondent has admitted that the petitioner is in physical possession of the disputed property, in whatever capacity, trespasser or otherwise. It is well-settled that a settled occupier of a property is entitled to electricity under Section 43 of the Electricity Act, 2003.

Irrespective of the respective contentions and claims of the respondent no.4 and the petitioner against each other in the pending civil suit, the petitioner is entitled to get an electricity connection in the petitioner's name subject to an inspection being held by the CESC Limited and raising of a quotation by the said authorities and compliance of all formalities by the petitioner, the entire exercise indicated above to be preceded by an application being filed by the petitioner for a low-tension connection. Subject to compliance of such formalities by the petitioner as indicated above and as required under the law and procedure, the CESC Limited shall hold an inspection in respect of the property-in-question to ascertain the feasibility of giving a new electricity connection to the petitioner within a fortnight from date upon prior notice to the petitioner as well as the

respondent no.4. Upon such inspection, in the event the CESC Limited comes to the conclusion that it is otherwise possible to give a new electricity connection to the petitioner, the CESC Limited shall, at the earliest thereafter, raise a quotation for such purpose and, upon compliance of all formalities by the petitioner, including deposit of the quotation amount, shall give a new electricity connection to the petitioner within a week from the date of compliance of all formalities by the petitioner.

In the event the CESC personnel face any obstruction from any quarter, including the respondent no.4 and/or the men and agents of the respondent no.4 at the time of holding such inspection or 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. If so approached, the said respondent, that is, the respondent no.3 shall provide such assistance at the cost of the petitioner.

In the event any padlock or other hindrance is put up to the access of the CESC personnel to the existing meter board position, the police personnel will be free to break open such padlock and/or remove the hindrance for the limited purpose of allowing the

CESC personnel to hold the inspection and to give such electricity connection to the petitioner.

Such new electricity connection, as and when given to the petitioner, shall not, by itself, create any special right and/or equity in the property in favour of the petitioner.

It is made clear that the above observations shall not influence any other forum, including the Wakf Tribunal, for independently deciding any *lis* which may be pending in respect of the property-in-question before such forum.

WPA No.11969 of 2022 is disposed of in the light of the above observations.

The police report filed by learned counsel for the State be kept on record.

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.)