

M/L. 64.
August 4, 2022.
MNS.

WPA No. 14950 of 2022

Phool Chand Shaw
Vs.
CESC Limited and others

Mr. Mrinal Kanti Ghosh

... for the petitioner.

Mr. Suman Ghosh

...for the CESC Limited.

Mr. Krishnadas Poddar

...for the respondent no. 6.

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

The grievance of the petitioner is that, due
to resistance put up by the private respondent no.
6, the CESC Limited is not being able to give new
electricity service connection to the petitioner.

Learned counsel for the petitioner places
reliance on Annexure- P/1 at page- 15 of the writ
petition, a copy of a deed of lease dated April 28,
2008 executed by the private respondent and
another as Shebait of the Deities Sree Sree
Sreedharji Jaganathjee and Laxmi Thakurani in
favour of the petitioner and another.

Learned counsel appearing for the CESC Limited corroborates such contention and submits that the CESC Limited has already held an inspection for giving a new electricity service connection and have no other legal impediment, apart from the obstruction raised by the private respondent, in giving such connection.

It transpires from the clauses of the lease deed annexed to the writ petition that the lease deed-in-question was entered into for a period of 99 years. However, learned counsel for the private respondent takes a strong objection to the petitioner taking new electricity service connection with new cables and other ancillary equipment, since the private respondent is allegedly not offering any obstruction to the petitioner's enjoyment of electricity from the existing meter board position.

Learned counsel for the private respondent also argues that the private respondent and the other lessor, in the capacity of Shebait of a Debuttar property, did not have legal authority to transfer the premises in favour of the petitioner.

It appears from the submissions of the parties that the existing meter board position is

within the portion of the property occupied by the private respondent.

However, the petitioner has produced documents to *prima facie* satisfy the court that the petitioner is entitled to 99 years' lease, upon which the property has been separated in the Municipal records.

Although the private respondent disputes such proposition and contends that the separation has not severed the property, it transpires that the nature of dispute and objection raised by the private respondent is entirely in the nature of a civil dispute.

Since the petitioner has an option to take a new electricity service connection to separate premises, to which the petitioner is entitled, by virtue of a lease of 99 years, there cannot be any legal impediment, since the CESC Limited is agreeable to do so, in giving a new electricity service connection to the petitioner at his separated portion.

However, it is well-settled that such service connection, *ipso facto*, shall not confer any special right or equity in favour of the petitioner otherwise than the petitioner already has in law.

Being a signatory to the lease deed and one of the lessors, in the absence of any challenge before a civil court and/or a specific order by a competent civil court, it does not lie in the mouth of the private respondent, who is one of the lessors, to himself challenge his own authority to let out the property, on the pretext that the property is a “debuttar property”. The private respondent is, in any event, bound by *estoppel* from taking such a position at this juncture, after having executed the lease deed and the petitioner having acted on the same.

Hence, WPA 14950 of 2022 is disposed of by directing the CESC Limited to give a new electricity service connection to the petitioner at the petitioner’s separate portion, in accordance with law and subject to compliance of all formalities by the petitioner.

In the event the CESC Limited personnel face any obstruction from private respondent no. 6 and/or his men and agents in giving such new service connection, it will be open to the CESC Limited personnel to approach the respondent no. 5, the Officer-in-Charge of Muchipara Police Station, for adequate police assistance.

If so approached, the respondent no. 5 shall grant such assistance at the cost of the petitioner for the limited purpose of giving such service connection to the petitioner.

It is, however, clarified that the service connection by itself shall not confer any special equity or right in favour of the petitioner, which the petitioner is not otherwise entitled to in law.

This Court has not entered into the merits of the allegations made by the private respondent no. 6 in respect of the right, title and interest of the petitioner in respect of the disputed property and it will be open to the private parties to approach a competent civil court, if he so chooses, and it will be open to such forum to decide the issue of title independently in accordance with law.

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.)