

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15029 of 2022

Sombhu Sarkar
Vs.
Calcutta Electric Supply
Corporation Limited & Ors.

Mr. Partha Chakraborty,
Mr. Tanmoy Khan
...for the petitioner

Dr. Madhusudan Saha Roy
...for the CESC Limited

Learned counsel appearing for the petitioner contends that the Calcutta Electric Supply Corporation Limited (CESC Limited) refused to accede to the request of the petitioner to shift an electricity pole, which is standing on the petitioner's property. It is submitted that the ground of refusal cited by the CESC Limited was primarily that the application has to be made in the name of the existing consumer of the CESC Limited. However, it is not possible for the petitioner to obtain an application from the persons who are enjoying the electricity connection from the said pole.

Learned counsel appearing for the CESC Limited submits that previously the property stood in the name of one Hemangini Sarkar, the paternal grandmother of

the petitioner. Subsequently, on her demise, her son (father of the petitioner) became one of the co-owners of the property. Thereafter, the partition was effected between all the co-owners, including the petitioner's predecessor-in-interest (father). Even thereafter, there was no objection from the side of the petitioner's predecessor-in-interest to the pole remaining at its present position. On the demise of the petitioner's father, the petitioner has apparently become the exclusive owner of the portion of the premises where the electricity pole has been installed.

Upon hearing both sides, it is evident that there was a partition by metes and bounds between the predecessor-in-interest of the petitioner and his co-owners. The petitioner, at present, has objection to the electricity pole remaining where it is.

As the petitioner has sought for shifting of the electricity pole, despite the petitioner not enjoying electricity connection, since the CESC Limited submits that the electricity connection from the pole is still standing in the name of a deceased person, under the law there is no bar for any third person, even a non-consumer of electricity, to apply for a shifting of electricity pole.

If such an application is made, the same has to be processed by the Distribution Licensee and necessary

steps be taken for shifting the pole-in-question, if feasible.

In the light of the above observations, W.P.A. No. 15029 of 2022 is disposed of by granting leave to the petitioner to apply for a shifting of the electricity pole-in-question in the petitioner's own name.

Upon such application being made by the petitioner in proper format, the CESC Limited shall immediately process the same and do the needful to enquire as to the feasibility of such shifting.

In the event the CESC Limited is agreeable to the said shifting, the CESC Limited shall intimate the necessary costs to the petitioner for such shifting and take appropriate steps in accordance with law.

In the event, however, the CESC Limited does not find it possible to do so for any technical obstacle, the CESC Limited shall, immediately upon taking such decision, communicate the same to the petitioner, including the grounds of such technical refusal of the proposed shifting.

In the event the petitioner is aggrieved against the decision, it will remain open for the petitioner to approach the appropriate authority with such grievance.

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.)