

S/L. 37.
September 21, 2022.
MNS.

WPA No. 17300 of 2022

Durga Devi Agarwal and another
Vs.
The Calcutta Electric Supply Corporation
Limited and others

Mr. Kushal Chatterjee,
Mr. N. Islam
Mr. Dipayan Kundu
... for the petitioners.

Mr. Swapan Kumar Pal
...for the State.

Mr. Partha Sarathi Bose
...for the CESC Limited.

Mr. Jayanta Kumar Mondal,
Mr. Sayantan Rakshit
...for the respondent no. 5.

Learned counsel for the petitioners
contends that initially the petitioners used to enjoy
electricity from the meter of the private
respondent no. 5 (Anjali Saha).

It is contended that subsequently, upon the
same being disconnected, the petitioners
approached the CESC Limited for getting an
independent electricity connection in the name of
the petitioner no. 1.

However, the respondent no. 5, Anjali
Saha, is objecting thereto, for which the
connection is not being given to the petitioners.

Learned counsel appearing for the CESC Limited, on instruction, submits that in principle, the CESC Limited does not have any objection to give electricity connection, subject to compliance of all formalities and due protection of the CESC Limited personnel being given in view of the obstruction being raised by the respondent no. 5 in giving such connection as well as holding inspection to ascertain the feasibility of the same.

Learned counsel appearing for the respondent no. 5 contends that the respondent no. 5 is the owner of the property. Jharna Rani Saha, who is one of the co-owners, permitted the present writ petitioners to use her electricity meter for the purpose of getting electricity supply. Subsequently, the said meter having stood damaged by fire, it is the CESC Limited, who has disconnected the supply thereto.

Learned counsel for the respondent no. 5 further submits that the said damaged meter may be replaced duly by the CESC Limited, upon which the petitioners can very well enjoy the electricity from the same as per the previous arrangement. It is further contended that the petitioners have no legal right to occupy the premises and are forcible occupants thereof.

It appears from the communications made by the petitioner no. 1 to the District Engineer, CESC Limited and the Officer-in-Charge of the Ultadanga Police Station that the petitioner no. 1 is suffering from various physical ailments. The petitioner no. 1, as per her communication to the District Engineer, CESC Limited, was using the electricity meter issued in the name of Jharna Rani Saha, having Customer ID 45000049327. The said meter, according to the petitioner no. 1, was allotted to the petitioner no. 1 by her landlady, Smt. Anjali Saha (private respondent no. 5), and the petitioners were regularly paying the electricity bill on month to month basis according to electricity bills raised by the CESC Limited.

On July 12, 2022, as per the petitioners' allegation, the said Anajali Saha and her sons disconnected the electricity supply to the petitioners' flat and, despite several requests to Anjali Saha and her sons, the same was not reconnected. In such context, the petitioners have sought electricity supply in the name of the petitioner no. 1 independently.

In the event the petitioners used to enjoy electricity from the meter standing in the name of

one Jharna Rani Saha, there cannot be any impediment, in view of the current disconnection of her electricity supply, for whatsoever reason, to the petitioners applying for an independent electricity connection in the name of the petitioner no. 1, subject, of course, to technical feasibility.

It is well-settled that a person in settled occupation of a property is entitled to electricity under Section 43 of the Electricity Act, 2003 (2003 Act) read in conjunction with Article 21 of the Constitution of India, irrespective of any objection raised by any third party.

Such right is unfettered by the legality or unlawfulness of such possession. Hence, whatsoever may be the allegations of the private respondent no. 5 against the petitioners with regard to their occupation of the premises, the fact of the matter is that the petitioners are undoubtedly in occupation of the property-in-question and, hence, are entitled to independent electricity connection in their name.

Hence, the CESC Limited is required to hold an inspection and to explore whether independent electricity connection can be given to the petitioners, and, if so, after compliance of what formalities.

Accordingly, WPA No. 17300 of 2022 is disposed of by directing the CESC Limited to hold an inspection within a fortnight from date to explore the feasibility of giving an independent electricity connection to the petitioners at the disputed premises. Thereafter, in the event the CESC Limited is satisfied as to such feasibility, the CESC Limited shall raise a quotation accordingly and intimate the petitioners as to the requisite formalities. Upon compliance of such formalities by the petitioners, the CESC Limited shall, irrespective of the objection of the private respondent no. 5, give such connection to the petitioners, preferably within a further fortnight from the compliance of such formalities.

In the event the CESC Limited personnel are obstructed in any manner by the private respondent no. 5 and/or her men and agents either in holding the inspection or in giving the service connection subsequently, the CESC Limited personnel will be at liberty to approach the Officer-in-Charge of the Ultadanga Police Station, that is, the respondent no. 4 herein, for adequate police assistance.

If so approached, the Officer-in-Charge of the Ultadanga Police Station shall provide such

assistance at the cost of the petitioners to ensure safe access to the CESC Limited personnel both for the purpose of inspection and, if required subsequently, for the purpose of giving electricity connection to the petitioners at the premises.

In the event any padlock or other hindrance is put up in the way of access to the CESC Limited personnel to the existing meter board position at the premises for such purposes, it will be open to the police authorities to break open the padlock and/or remove any hindrance for the limited purpose as indicated above.

It is made clear that the independent electricity line, as and when given to the petitioner, shall not create any special right or equity in favour of the petitioners, if not otherwise available to them in law, in respect of the premises.

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.)