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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 19071 of 2021
with
IA No. C.A.N. 1 of 2021**

(Via video conference)

**Basanti Bhattacharya
-vs.-
Calcutta Electric Supply
Corporation Limited & Ors.**

Mr. Amar Nath Sen,
Mr. Malay Dhar,
Mr. Biswajit Sarkar
...for the petitioner

Mr. Subrata Santra
...for the CESC Limited

Mr. Samik Sarkar
...for the respondent no. 3

Learned counsel for petitioner argues, on the basis of a report filed by the District Engineer, Southern District of the CESC Limited, that, as per the CESC itself, there is no technical difficulty in giving a new electric connection in the name of the petitioner in respect of the premises-in-dispute.

As such, it is argued that the private respondent is unlawfully resisting the CESC personnel from giving such connection.

Learned counsel appearing for the private respondent takes an exception to the statement made in

the said report of the District Engineer and submits, *inter alia*, that the averments regarding the present residence of Mrs. Bani Bhattacharjee, the mother of the respondent no. 3, as well as the other allegations regarding the respective rights of the parties are factually and legally erroneous. It is further submitted that Mrs. Bani Bhattacharjee has expired in the meantime and, as such, there cannot arise any question of her continuing to reside in the building, which has also not been described properly in the report as per the private respondent.

It appears from the report that several comments were recorded therein, including certain observations about the purported rights of the petitioner in respect of the disputed premises.

It is well-settled that neither the Writ Court nor the Distribution Licensee has the legal authority to decide any civil right, title and/or interest of any individual/juristic person. However, it is further evident from the report that there is no technical difficulty in giving the connection to the petitioner from the end of the CESC Limited, since the two houses existing at the locale are structurally segregated and, according to the CESC itself, there is a gap of approximately one foot between the two buildings. Since the CESC itself has taken a specific stand that a service connection may be installed in the building where the petitioner resides and

an electric meter may be installed thereat on her complying necessary formalities, it is the incumbent duty of the CESC Limited within the purview of Section 43 of the Electricity Act, 2003 to give such connection, of course, subject to compliance of all due formalities.

The private respondent, who is denying the right, title and interest of the petitioner in respect of the property, has every right to ventilate such grievance before a competent civil court in an appropriate proceeding. However, the said objection does not, *ipso facto*, confer *locus standi* on the private respondent to stand in the way of the petitioner getting electric connection.

Accordingly, W.P.A. No. 19071 of 2021 along with C.A.N. 1 of 2021 are allowed, thereby directing the CESC Limited to provide a service connection to the petitioner at the disputed premises, subject to compliance of all formalities by the petitioner, within four weeks from date.

In the event any resistance is put up thereto from the end of the respondent no. 3 and/or his men and agents or any third party, it will be open to the CESC personnel to approach the Officer-in-Charge of the local police station near the locale for adequate police assistance in that regard.

If such an approach is made, the police-authorities shall act on the server copy of this order,

without insisting upon prior production of a certified copy thereof, and render adequate police assistance to the CESC personnel, at the cost of the petitioner, to enable the CESC personnel to provide such service connection to the petitioner.

It is made clear that it will also be open to the police personnel to remove any unlawful obstruction, if raised by the private respondent, for the limited purpose of enabling the CESC personnel to provide service connection to the petitioner.

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.)