

S/L. 54.
September 9, 2022.
MNS.

WPA No. 18451 of 2022

Smt. Shampa Mukherjee
Vs.
CESC Limited and others

Mr. Narayan Debnath,
Ms. Bishalaxmi Ghosh

... for the petitioner.

Mr. Rajiv Lall

...for the CESC Limited.

Mr. Somnath Ray Choudhury

...for the private respondent no. 4.

Learned counsel for the petitioner contends that her mother-in-law, who was the original owner of the property, expired on August 20, 1982. Subsequently, the petitioner purchased half of the property and when the petitioner applied for transfer of the electricity connection subsisting at the premises in the year 2022, it appeared that the transfer had already been effected from the name of the erstwhile consumer, that is, the petitioner's mother-in-law, to that of the respondent no. 4, who is a tenant in respect of the premises.

On such ground, the transfer, the petitioner alleges, was not effected in favour of her daughter, as requested by her in her representation to the CESC Limited.

Learned counsel appearing for the CESC Limited submits, on instruction, that only upon a proper application having been made in appropriate format by respondent no. 4, the transfer of name in respect of the said meter was effected in February, 2018. Hence, the CESC authorities are not at fault in granting such transfer.

Moreover, it is pointed out that no proper application in appropriate format has been filed at any point of time by the present petitioner or her daughter for the transfer and/or getting a new electricity connection.

Learned counsel appearing for the respondent no. 4 submits that the respondent no. 4 has been using the electricity from the meter, which was initially in the name of the mother-in-law of the petitioner(since deceased), and applied for transfer in the respondent's name to facilitate user interaction with the Distribution Licensee and user access to the meter. Moreover, there was no contesting claim at any point of time from the

date of demise of the petitioner's mother-in-law on August 20, 1982 till February, 2018.

Upon hearing learned counsel for the parties and going through the materials on record, including the supplementary affidavit, which is filed in Court today and is kept on record, it is evident that the petitioner has 50% share in the property by purchase and has also 50% share along with her daughter as heirs of her deceased mother-in-law (her father-in-law and her husband have also expired in the meantime), the transfer of the electricity connection ought to be effected, for the ends of justice, in favour of the petitioner and/or her daughter.

However, the respondent no. 4 has rightly contended that the said respondent has right under the law to enjoy electricity, which is a basic necessity, at the premises which cannot be taken away by directing transfer of the meter in favour of the petitioner or her daughter.

Hence, keeping in view the interest of all concerned, WPA No. 18451 of 2022 is disposed of by directing the CESC Limited to process and decide on the application for independent new electricity connection, if already been filed by the respondent no. 4, as expeditiously as possible

and upon compliance of due formalities by the respondent no. 4, if feasible, such new connection shall be given to the respondent no. 4 by the CESC Limited, preferably within three weeks from the date of compliance of all formalities. In the event the respondent no. 4 has not filed such application or a previous application has not been disposed of, respondent no. 4 shall be at liberty to file such an application now, upon which the direction as given above in respect of a pre-existing application shall apply to such new application.

Immediately thereafter, the CESC Limited shall consider the transfer application, if any, made in the meantime by the petitioner and/or her daughter for transfer of the name in respect of the electric meter in their favour from the erstwhile consumer and shall process the same and effect the transfer, subject to compliance of all formalities, at the earliest, preferably within a fortnight after electricity connection is given to the respondent no. 4.

In the event the CESC Limited is of the opinion for cogent legal reasons that such new connection cannot be given to the respondent,

the CESC Limited shall give due notice to the respondent no. 4 indicating the reasons therefor.

The respondent no. 4, in such situation, will be at liberty to challenge such refusal before the appropriate forum.

It is made clear that the directions as given in this order shall not prejudice the right and contention of any of the parties to the present writ petition in respect of the property-in-question.

In the event the petitioner and the respondent no. 4 are entitled to any other relief in law in their capacity as co-owner/tenant, it will be open to the petitioner and respondent no. 4 to approach the appropriate and competent forum for seeking such relief in accordance with law without being influenced in any manner by any of the observations made herein.

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.)