

AD-12
Ct No.09
12.09.2022
TN

WPA No. 20032 of 2022

Sunil Nath
Vs.
CESC Limited and others

Mr. Biswadeb Ray Chaudhuri
.... for the petitioner

Mr. Suman Ghosh
.... for the CESC Limited

Mr. Swapan Kr. Pal
.... for the State

Learned counsel for the petitioner submits that the petitioner is one of the co-owners of the building, where the petitioner and the private respondents reside after the demise of the original owner, that is, the father/predecessor-in-interest of the petitioner and the private respondents.

Although after the demise of the father, electricity connection was given in the name of one of the private respondents, it is submitted that the petitioner also paid for that connection and had been enjoying electricity from the said connection as well.

It is further contended that despite such factual development, the private respondents disconnected the petitioner's electricity service, for which the petitioner wrote to the CESC Limited for an

independent connection. However, such connection is not yet been given.

Learned counsel appearing for the State files a police report. with certain annexures, which indicates that the question of any police action does not arise, since the crux of the complaint is purely civil in nature. Such police report filed today by learned counsel for the State be kept on record.

Learned counsel for the Distribution Licensee submits that after demise of the father of the private parties, the electricity supply had been disconnected in March, 2021. Subsequently, upon due payments being made, the said connection was restored and is at present standing in the name of respondent no.4, who was the applicant for such electricity.

It is, thus, submitted that the dispute raised by the petitioner is in the nature of a civil dispute between the private parties.

Learned counsel for the petitioner submits that the petitioner has already lodged a complaint with the police authorities.

Upon a perusal of the materials on record, it transpires that the petitioner has levelled grave allegations against the private respondent nos.4 and 5, who choose to remain unrepresented despite good service.

It also transpires that the petitioner's complaint is pending before the police authorities. However, since the respondent no.4 has applied for the electricity connection, which has been restored at the behest of the respondent no.4, to whose application the petitioner was also a signatory, having given 'no objection' thereto, the CESC Limited cannot be faulted for giving such connection.

Inasmuch as fresh application is concerned, the document annexed to the present writ petition indicates that the petitioner only gave a representation to the CESC Limited, which is, in any event, insufficient for the purpose of CESC giving a new connection.

Although an objection has been taken by the CESC Limited that there might be apprehension of splitting of load in the event a fresh connection is given independently to the petitioner, any finding in that regard will be premature at this juncture, since no application for new connection has been made in proper format till date by the petitioner.

In the above circumstances, WPA No. 20032 of 2022 is disposed of by granting the petitioner liberty to apply for a new electricity connection as well as to approach the appropriate civil court for due remedy of

the petitioner, if any provided in law, against the private respondent nos.4 and 5.

If such an application for electricity connection is made by the petitioner in appropriate format, the same shall be considered by the CESC Limited and processed by the CESC Limited.

However, it is made clear that this direction shall not operate as a mandatory direction on the CESC Limited to give independent electricity connection to the petitioner and the application of the petitioner shall always be subject to compliance of formalities and to the CESC Limited ascertaining whether there was any objection on the part of the CESC Limited, including that of splitting of load, in giving such connection to the petitioner. In the event the CESC Limited refuses to give such connection, a due communication in writing shall be made to the petitioner disclosing the reasons for such refusal, upon which it will be open to the petitioner to pursue his remedy in law.

None of the rights and contentions of the private parties in respect of the disputed property has been gone into by this court and it will be open to both the petitioner and the private respondents to canvass their respective rights and contentions before any forum, including civil/criminal/other authorities.

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.)