

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 20787 of 2022

Aparna Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Dipanjan Datta,
Mr. Sayan Datta
... for the petitioner

Mr. Swapan Kumar Pal
...for the State

Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Prasanta Kumar Banerjee
Ms. Indrani Nandi
...for the private respondents

Learned counsel appearing for the petitioner contends that the private respondents have been resisting CESC Limited from giving electricity connection to the petitioner as per the petitioner's application.

It is pointed out by learned counsel appearing for the CESC Limited that the application was defective in the sense that it had been made in the name of the deceased grandfather of the petitioner. Moreover, certain documents are to be produced for the purpose of processing the application for new connection, which were not given by the petitioner.

Learned counsel appearing for the private respondents, who are neighbours, places reliance on an injunction order passed by a civil court, whereby a *status quo* was granted in respect of the 'Ka-1' schedule mentioned property, which is apparently the passage over which the electricity connection is to be given.

It is submitted that the petitioner is acting at the behest of a developer, in favour of whom a development agreement has been executed by the co-owners, including the petitioner. It is argued that since the petitioner is not in possession of the property, she does not have a right to get an electricity connection in her name.

Inasmuch as the civil dispute between the petitioner and the private respondents is concerned, the same is *sub judice* before the Second Court of Civil Judge (Junior Division) at Serampore, District-Hooghly in Title Suit No. 470 of 2021. However, as per the interim order passed in the said suit on June 23, 2022, the plaintiff and defendants in the suit, including the present writ petitioner, were directed to maintain *status quo* in respect of nature, character and enjoyment of 'Ka-1' schedule mentioned property, as it stood on that date, till disposal of the suit. Both parties were also directed not to restrain each other from using the passage for their ingress and egress into their

respective properties and the defendants were restrained from stacking any kind of building materials upon the 'Ka-1' schedule mentioned passage-in-question till the disposal of the suit.

Upon perusal of the said order, as indicated above, there appears to be no restraint against the giving of new electricity connection at the premises-in-question.

As to the civil rights of the petitioner, including the entitlement in law to get independent electricity supply, the development agreement executed between the petitioner and a developer does not take away or curtail such rights, since the petitioner is one of the co-owners and has been in occupation of the property.

The respective rights, titles and interests as well as possession in respect of the residential building are not even *sub judice* in the suit, since the subject-matter of the same is the passage-in-question. Giving an electricity connection to the petitioner shall not *ipso facto* cause any hindrance to the ingress and egress by any of the parties to the suit, nor does it signify stacking of any kind of building materials or changing the nature and character or enjoyment of the passage, as directed by the competent civil court.

Since the CESC Limited has taken a valid objection as regards the flaws in the application, the ends of justice would be sub-served in the event a

fresh application is made by the petitioner and the relevant documents required to establish the petitioner's possession are produced by the petitioner before the CESC Limited.

Hence, W.P.A. No. 20787 of 2022 is disposed of by directing the CESC Limited to give a new service connection at the premises, subject to the petitioner making a fresh application for such purpose within two weeks from date in her own name for getting such service connection and subject to the petitioner producing sufficient documents, as required by law and established procedure, to establish her *prima facie* occupation in respect of the said property. The CESC Limited, upon compliance of all formalities by the petitioner, including production of documents and payment of all due charges, shall give such connection, as expeditiously as possible, preferably within three weeks from completion of all formalities after the petitioner applies.

However, the electricity connection shall not create or confer any special right or equity in favour of the petitioner vis-à-vis the pending civil suit and it will be open to the parties to the suit to urge all their contentions in the said suit, without being prejudiced in any manner by any of the observations made herein.

In the event any obstruction is raised by the private respondents and/or any other party in giving of

such connection to the petitioner by the CESC personnel, the CESC personnel shall be free to approach the respondent no. 5, that is, the Officer-in-Charge, Serampore Police Station for police assistance.

The respondent no. 5 shall act on the written communication of the learned Advocates for the parties, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof and give such assistance at the cost of the petitioner.

It is further reiterated that the questions touching the merits of the pending civil suit have not been entered into by this court at all.

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.)