

28th September,
2022
(AK)
09

W.P.A 22302 of 2022

Sayan Patra
Vs.
The CESC Ltd. and others

Mr. Rahul Karmakar
Mr. Deobrat Upadhyay
Mrs. Munmun Mazumder
...for the petitioner.

Mrs. Sreemoyee Mitra
...for the CESC Limited.

Learned counsel for the petitioner contends that the petitioner is a lessee in respect of the premises-in-question where the petitioner sought an independent electricity connection.

To prove the possession of the petitioner, learned counsel places reliance on Annexure P1 at page 17 of the writ petition which is a purported communication issued by the owners/lessor of the premises, who are private respondents herein, indicating that the petitioner is the lessee in respect of premises no. B/38/H/2, Pramanick Ghat Road, P.S. Cossipore, Kolkata – 700 036.

Learned counsel for the CESC Limited hands over a copy of a communication issued by the District Engineer, Northern District of the CESC Limited to the petitioner indicating that the supply of electricity could not be given to the premises because of allegedly unauthorized

construction at premises no. B/38/H/1 and B/38/H/2, Pramanick Ghat Road, P.S. Cossipore, in respect of which the police authorities have intimated the CESC Limited that a complaint under Section 401(A) of the KMC Act, 1980 is pending at the behest of the police, more particularly, the Cossipore Police Station, alleging such unauthorized construction.

Since the police authority has initiated Cossipore Police Station Case No. 50 dated 19.04.2022 on such allegations, it is submitted that the CESC Limited could not give electricity connection to the petitioner. That apart, it is contended by the CESC Limited that the address at which the petitioner has sought electricity connection is at 38/H/2, Pramanick Ghat Road and not B/38/H/2, where the petitioner is said to be in possession. As such, on the basis of such application, no electricity connection can, in any event, be given to the petitioner.

Upon hearing learned counsel for the parties, it transpires that the petitioner has applied for electricity at premises no. 38/H/2, whereas the petitioner resides at B/38/H/2, for substantiating which, at least *prima facie*, evidence has been produced by the petitioner by way of the letter issued by the owners.

Irrespective of the pendency of the “litigation”, that is, the police case referred to above, however, it cannot be prejudged that the construction is an unauthorized one at

this stage, unless there is a specific order to that effect by the concerned Corporation, that is, the KMC.

Since there is no order of any competent authority or court as yet declaring the construction to be unauthorized, there cannot be any impediment on that score at the present juncture to give electricity at premises no. B/38/H/2.

However, since the application of the petitioner is defective to the extent of wrong mention of address, WPA No. 22302 of 2022 is disposed of by granting liberty to the petitioner to file a fresh application for new electricity connection at premises no. B/38/H/2, Pramanick Ghat Road, P.S. Cossipore, Kolkata – 700 036.

If such an application is made and upon compliance of preliminary formalities, the CESC Limited shall give such electricity connection to the petitioner as expeditiously as possible, preferably within four weeks from the compliance of such formalities, independently and irrespective of the pending police case in respect of the premises.

However, it is made clear that the electricity connection, as and when given, shall not *per se* validate or legalize the construction, if it is not so otherwise in law.

The merits of the allegations and counter-allegations with regard to the said building being unauthorized has not been gone into by this court.

In any event, this order directing the CESC Limited to give the electricity connection shall be subject to any subsequent order, if passed by a competent authority declaring the building to be unauthorized or directing demolition thereof.

If so directed, it will be open to the CESC Limited to take further action accordingly, even if the connection is given in the meantime.

It is further clarified that the CESC Limited shall hold an inspection upon the fresh application being made by the petitioner, to ascertain the technical feasibility of giving such connection to the petitioner and thereafter, subject to such connection being so feasible, to issue an offer letter for the petitioner to comply with the formalities.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)