

22nd December,
2022
(AK)
01

W.P.A 26509 of 2022

Rakesh Kumar Yadav
Vs.
Calcutta Electric Supply Corporation Limited and others

Mr. Shyamal Kumar Das
Ms. Krishna Yadav
...for the petitioner.

Mr. Debjit Mukherjee
...for the CESC Limited.

Mr. Saikat Mondal
...for the respondent no.4.

Learned counsel for the petitioner argues that the petitioner has already complied with the necessary formalities for getting electricity connection from the CESC Limited, but not getting such connection.

However, learned counsel for the CESC Limited submits that due to obstruction put up by the added respondent no.4, no inspection could be taken for the purpose of checking the feasibility of such connection.

Learned counsel appearing for the added respondent no.4 places reliance on Order no.28 dated September 28, 2022 passed by the Civil Judge (Junior Division) Second Court at Serampore in Title Suit no.387 of 2019.

In the said order, it is reflected that a suit was filed by the present writ petitioner as plaintiff. In the said suit, two applications under Section 151 of the Code of Civil

Procedure were filed, one by each of the parties, which were decided by the said order.

The application filed by the writ petitioner as plaintiff for a direction on the CESC Limited to provide electricity connection to the plaintiff was rejected.

However, the application filed by the private respondent no.4 for a direction on the Rishra Police Station to provide police assistance to the officials of CESC Limited for giving electricity connection to the respondent no.4 was allowed.

It is, thus, submitted that by dint of the electricity connection, the writ petitioner is seeking to establish possession in respect of the disputed property.

As such, it is submitted that the present application ought not to be allowed.

Considered and perused the order handed up by learned counsel for the respondent no.4. By the said order, the police were directed to assist the CESC personnel in giving electricity connection to the respondent no.4.

On query of court, it is revealed that such connection has already been given.

However, although the application by the writ petitioner for a direction on the CESC Limited was rejected, the same cannot, *ipso facto*, operate as an order of injunction restraining the writ petitioner from getting

the writ petitioner's own connection at the property-in-question.

It is well-settled that mere electricity connection cannot create any special equity or right as regards the right, title and possession in respect of the property.

As such, WPA 26509 of 2022 is disposed of by directing the CESC Limited to hold an inspection at the property to check the feasibility of giving a separate electricity connection to the petitioner.

If it is found that the same is feasible, subject to compliance with formalities by the petitioner, such connection shall be given by the CESC Limited.

In the event any obstruction is raised in giving such connection to the respondent no.4, the CESC Limited personnel will be at liberty to approach the respondent no.3, the Officer-in-Charge of the Rishra Police Station, for police assistance.

If so approached, the respondent no.3 shall act on the communication of the learned advocate for the parties and/or a server copy of this order without insisting upon prior production of a certified copy to give such assistance to the CESC personnel at the cost of the petitioner for the limited purpose of holding the inspection, and, thereafter, if feasible, to give the electricity connection to the petitioner.

It is, however, made clear that such electricity connection, as and when given in the name of the

petitioner, shall not create any special equity, right, title and/or interest in favour of the petitioner with regard to the suit property which the petitioner otherwise does not have in law.

It is further clarified that this court has not gone into the merits of the respective contentions of the private parties with regard to their right, title and interest in the suit property and it will be open to the civil court where the suit is pending to decide all such issues independently 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 copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)