

AD-03
Ct No.09
15.03.2023
TN

WPA No. 1629 of 2023

Arati Naskar
Vs.
Calcutta Electricity Supply Corporation Limited and
others

Mr. Debasis Mitra,
Mr. Tanupriyo Roy

.... for the petitioner

Ms. Sreemoyee Mitra

.... for the CESC Limited

Mr. Rahul Karmakar,
Mr. Tapan Nag Chakraborty

.... for the private respondents

The petitioner submits that the petitioner is a seventy-eight year old lady and she has been without electricity since long.

On query of court, it is admitted by learned counsel for the petitioner that the petitioner has purchased the property in the year 1978 and has been in possession of the property since then. However, it transpires from the report filed by the Calcutta Electricity Supply Corporation Limited (CESC Limited) today, which is kept on record, that it is only possible to give electricity connection to the petitioner over a purported passage which is common in nature.

Such contention is controverted by learned counsel for the private respondents who submits that there is no passage at all and the purported 'passage' is actually the exclusive property of the private respondents, over which the petitioner does not have any right whatsoever in any form.

Upon perusal of the materials, it is clear that there is a patent dispute about the ownership and right of user of the 'passage' mentioned by the CESC Limited in its report. The sole route of giving the electricity connection to the petitioner goes through the said disputed plot of property. It is well-settled that the writ court, particularly while hearing a dispute of the present nature, cannot go into an adjudication of the title or civil rights of parties.

Although the petitioner is justified in arguing that the petitioner cannot be compelled to live forever in darkness due to resistance by the private respondents, it stands unexplained as to why no such application was made by the petitioner since 1978, when the petitioner allegedly came in possession, till this date, if the passage was actually being used all along by the petitioner.

Hence, a further short delay would not prejudice the petitioner to such extent that the

petitioner would be affected inasmuch as her right to life is concerned.

In view of the Works of Licensees Rules, 2006, if a dispute is raised with regard to the electricity connection being given to a proposed consumer, the same has to be decided by the appropriate authority, that is, the District Magistrate.

Hence, the purpose of justice would only be sub-served, particularly in the light of the report of the CESC Limited which says that the disputed passage is the only property over which the electricity connection can be given to the petitioner, if the matter is referred to the concerned District Magistrate.

Accordingly, WPA No. 1629 of 2023 is disposed of by granting the petitioner liberty to approach the concerned District Magistrate with the dispute as raised in the present writ petition. Upon such an approach being made, the District Magistrate shall decide the issue upon giving opportunity of hearing to the petitioner, the private respondents, the CESC Limited as well as all others concerned, if any, as expeditiously as possible, preferably within eight weeks from the date of such application being made to the Magistrate. It is made clear that the civil rights, title and/or interest of the parties have not been gone

into on merits by this court while passing the present order.

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.)