

AD-07
Ct No.09
15.03.2023
TN

WPA No. 4935 of 2023

Jageswari Devi Das
Vs.
CESC Limited and others

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh

.... for the petitioner

Mr. Somnath Bose

.... for the CESC Limited

Mr. Pinaki Bhattacharyya,
Mr. Subhankar Dutta,
Mr. Amartya Mohan Bhattacharyya

.... for the respondent nos.4 & 5

The petitioner's grievance is that the petitioner is not getting new electricity connection from the CESC Limited due to obstruction created by the private respondent nos.4 and 5.

Learned counsel for the CESC Limited supports such contention and contends that when the CESC authorities went to have an inspection of the premises for the purpose of granting electricity connection to the petitioner, they were resisted by the private respondents and their men and agents.

Learned counsel appearing for the respondent nos. 4 and 5 submits that they are the landlords of the property and the petitioner, in the garb of taking

electricity connection, is trying to change the nature and character of the suit property, in contravention of a subsisting order of injunction granted by this court in second appeal.

The private respondents/landlords filed an eviction suit and got a decree of eviction against the petitioner-tenant. Subsequently, the first appellate court reversed such decree, against which a second appeal has been preferred, which is now pending in this court. In connection with the second appeal, an order of injunction has been passed by this court, restraining the petitioner *inter alia* from changing the nature and character of the suit property.

It is submitted that by virtue of taking the electricity connection, the petitioner is trying to violate the said order by altering the nature and character of the suit property.

It transpires from the arguments of the parties that the injunction granted restrains the petitioner *inter alia* from changing the nature and character of the suit property.

However, mere taking of an electricity connection can neither confer any special equity or right in favour of the consumer, nor tantamount to changing the nature and character of the property.

As such, the objection taken by the private respondents to the petitioner getting electricity connection cannot be upheld.

Accordingly, WPA No. 4935 of 2023 is disposed of by directing the CESC Limited to hold an inspection to ascertain the feasibility of giving electricity connection to the petitioner within a week from date. In the event the CESC Limited is of the opinion that it is so feasible, the CESC Limited shall raise a quotation on the petitioner and upon compliance of due formalities by the petitioner, shall give such connection to the petitioner as expeditiously as possible, preferably within a fortnight from the date of compliance of formalities by the petitioner.

If on either of the occasions of inspection or giving electricity connection to the petitioner, the CESC personnel face any hindrance from the private respondent nos.4 and 5 and their men and agents in doing so, it will be open to the said personnel to approach respondent no.3, the Officer-in-Charge, Watgunge Police Station for adequate police assistance, which will then be given by the respondent no.3, by acting on a server copy of this order, at the cost of the petitioner.

In the event any padlock or other hindrance is put up by the private respondents, the same shall be

removed by the police personnel for the limited purpose of giving access to the CESC personnel in order to comply with the above directions.

However, it is made clear that this order shall not confer any right on the petitioner which the petitioner otherwise does not have in law and shall be without prejudice to the rights and contentions of the parties in the pending second appeal. That apart, during subsistence of the injunction order passed by this court in second appeal, the petitioner shall not, in the garb of taking electricity connection, or taking advantage thereof, change the nature and character of the suit property or in any other manner violate the injunction order passed by the second appellate court.

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.)