

AD-07
Ct No.09
29.03.2023
TN

WPA No. 7125 of 2023

Faiza Zainab Ahmad
Vs.
The CESC Limited and others

Mr. Sunny Nandy,
Mr. Subha Pathak

.... for the petitioner

Mr. Debanjan Mukherji

.... for the CESC Limited

Mr. Rama Prasad Sarkar,
Ms. Anita Deb Jana

....for the State

Mr. N.C. Behani,
Mr. Gour Baran Sau,
Mr. D. Mukherjee

....for the private respondent no.4

The petitioner contends that due to objection raised by respondent no.4, Mutwalli of Abdul Latif and other Wakf Estate, the CESC Limited is not being able to give new electricity connection as per the petitioner's request.

Learned counsel appearing for the CESC Limited agrees to the same and adds that the CESC Limited could not yet take any inspection for the purpose of ascertaining the feasibility and raising quotation to give new electricity connection to the petitioner.

Learned counsel appearing for the private respondent no.4, the Mutwalli, submits that a specific allegation was made by the Wakf Estate against the petitioner on the ground that the petitioner is an encroacher on the property within the contemplation of Section 54 of the Wakf Act, 1995. Subsequently, the said matter has been referred to the Tribunal for affirmation of the order of the Chief Executive Officer of the Board of Wakf holding that the petitioner is an encroacher. The same is the ground of objection by private respondent no.4.

Upon hearing learned counsel for the parties, it is clear that the only objection by the private respondent no.4 to the petitioner getting an electricity connection is that she is a declared encroacher.

However, it is well-settled that even an unlawful occupier, irrespective of the legality of such possession, is entitled to get electricity connection under Section 43 of the Electricity Act, 2003, if he or she is in settled possession of the property. In the present case, the legality of the possession of the petitioner has been challenged, but not the factum of possession itself. Hence, the petitioner is entitled to get an electricity connection in her name at the premises. However, the same cannot cause any prejudice to the rights and contentions of the parties

in the pending proceeding, if any, before the Tribunal and/or create any fresh equity in favour of the petitioner.

Accordingly, WPA No. 7125 of 2023 is allowed, directing the CESC Limited to hold an inspection for the purpose of ascertaining the feasibility and route of giving a new electricity connection to the petitioner at the premises-in-question and to raise a quotation thereafter. Such inspection shall be completed within ten days from date.

After the raising of such quotation, the petitioner shall comply with all the requisite formalities and, within a period of a fortnight from compliance of such formalities, the CESC Limited shall give the new electricity connection, if otherwise feasible, to the petitioner at the premises.

However, it is reiterated that the mere fact of giving such electricity connection to the petitioner shall not create any special right or equity in favour of the petitioner which the petitioner does not otherwise have in law. Moreover, such electricity connection *per se* will not prejudice the rights and contentions of the parties in the pending proceeding, if any, before the Wakf Tribunal.

In the event any objection is raised by private respondent no.4 and/or her men and agents in the

CESC personnel giving such connection, it will be open to the CESC personnel to approach respondent no.3, the Officer-in-Charge, Bullygunj Police Station for adequate police assistance. Such assistance will then be given by respondent no.3 by acting on a server copy of this order at the cost of the petitioner on both the occasions of the inspection and the electricity connection being given to the petitioner.

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.)