

31<sup>st</sup> March,  
2023  
(AK)  
06

**W.P.A 7378 of 2023**

Narendra Shaw  
Vs.  
CESC Limited and others

Mr. Pawan Kr. Gupta  
Mr. Santanu Sett  
...for the petitioner.

Ms. Sumouli Sarkar  
...for the CESC Limited.

Mr. Lakshminath Bhattacharya  
...for the respondent nos.5 & 6.

Learned counsel for the petitioner contends that the petitioner is a co-owner of the property but cannot be given electricity connection due to objection raised by the private respondents.

Learned counsel appearing for the CESC Limited submits in the same tune.

Learned counsel appearing for the respondent nos.5 and 6, Mr. Lakshminath Bhattacharya submits that the petitioner is not in occupation of the property.

There are five rooms in the property, it is contended, and each is in occupation of other co-owners than the petitioner.

Learned counsel for the private respondents also hands over a server copy of an order dated September 6, 2019 passed in W.P. 15332 (W) of 2019 which indicates

that one Raj Kumari Devi had obtained such order from a coordinate Bench.

The said order indicates that one other order dated August 21, 2019 to the extent, it requires the police to put the writ petitioner into possession of a room should be read to mean that, the writ petitioner can occupy the room which is available to her at the property concerned.

Although the order dated August 21, 2019 is not produced, it is evident from the tenor of the order dated September 6, 2019, that the court went on to record that the property concerned was originally owned by the husband of the petitioner and upon his death, the writ petitioner as his widow, and the five sons inherited the property in equal shares. The property, it was recorded, is yet to be partitioned by metes and bounds.

Although there is a dispute with regard to the exact physical occupation in respect of the property, upon query of court, Mr. Lakshminath Bhattacharya, learned counsel appearing for the private respondent nos.5 and 6, admits that the petitioner is one of the co-owners of the property.

Although the physical possession of the co-owner is disputed, it is well-settled that a co-owner of a property is deemed to be in occupation of each and every square inch of the property along with the other co-owners.

Even if the petitioner is not in physical occupation of the property at the present moment, the occupation of

other co-owners would tantamount to joint possession with the petitioner as per settled proposition of law.

Hence, being a co-owner, the petitioner cannot by any stretch of imagination be refused a new electricity connection in the petitioner's name if the same is otherwise feasible.

Accordingly, the objection raised by the private respondents is turned down.

Learned counsel for the private respondents seeks to use an affidavit-in-opposition.

However, since the facts are as elaborated above, there is no scope to grant further affidavits in the matter, since the same would only encourage dilatory tactics being adopted by the private respondents to delay the electricity connection being given to the petitioner.

Such attempt is deprecated.

WPA No. 7378 of 2023 is allowed, thereby directing the CESC Limited to give new electricity connection to the petitioner at the premises-in-question within a fortnight from date.

In the event the private respondents and/or their men and agents create any obstruction in doing so, the CESC personnel will be at liberty to approach respondent no.3, the Officer-in-Charge of the Budge Budge Police Station, who will give adequate police assistance at the cost of the petitioner in that regard, by acting upon a

server copy of this order, without insisting upon prior production of a certified copy thereof.

If any padlock or other hindrance is put up to prevent the access of the CESC personnel, the police personnel will be at liberty to break open such padlock and/or remove the hindrance for the limited purpose of enabling the CESC Limited to give the new connection to the petitioner at the existing meter board position.

Affidavit-of-service and the copy of the order handed over by private respondent nos.5 and 6 be kept on record.

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.)**