

AD-07
Ct No.09
04.04.2023
TN

WPA No. 7623 of 2023

Rupa Nath
Vs.
The State of West Bengal and others

Mr. M. Kumar Gupta,
Mr. Arpan Mondal
.... for the petitioner

Ms. Piyali Sengupta,
Ms. Rupsha Chakraborty
.... for the State

Dr. Madhusudan Saha Roy
.... for the CESC Limited

Mr. Sangkrito Roy Chaudhuri,
Mr. Wasim Dafader,
Ms. Madhumouly Maiti
.... for the respondent
nos.5 and 6

Learned counsel for the petitioner argues that the petitioner is a tenant in respect of the property-in-question, where the electricity connection stood in the name of the petitioner. However, subsequently it was apparently transferred in the name of the private respondents/landlords at the behest of the said private respondents.

Such transfer, it is argued, took place behind the back of the petitioner.

Soon thereafter, the private respondents surrendered the said electricity connection, upon

which the petitioner has sought restoration of such connection, since the petitioner is suffering for such disconnection of electric supply.

Learned counsel appearing for the Calcutta Electricity Supply Corporation Limited (CESC Limited) submits that the application for transfer of name was made by the private respondents by annexing a purported agreement executed between the private respondents and the petitioner.

Hence, there was no illegality, it is argued, in such transfer of the name. However, interestingly, soon thereafter the private respondents surrendered such connection.

It is further submitted by the CESC Limited that there is no objection otherwise in principle of the CESC Limited to restore the connection in the name of the petitioner.

Learned counsel appearing for the private respondents disputes such contentions and argues that the petitioner, contrary to the claim of the petitioner, is not a tenant in respect of the property. Initially the petitioner was a licensee. However, upon termination and expiry of such licence, the petitioner is a mere trespasser on the property.

It is further submitted that for the last six years, the petitioner has allegedly been seeking an

alternative accommodation to shift from the property but has not so shifted in reality.

It is also argued that an eviction suit is pending at present at the instance of the private respondents against the petitioner, in which the private respondents have obtained an order of injunction restraining the petitioner (defendant in the suit) from disturbing the possession of the private respondents with regard to the property.

There is a contradiction in terms in the arguments of the private respondents inasmuch as the filing of the eviction suit by the private respondents against the petitioner *per se* shows that the private respondents have admitted the possession of the petitioner. Irrespective of the legality or illegality of such possession, which will be decided in the pending eviction suit, it is well-settled that a person in settled possession of a property is entitled under Section 43 of the Electricity Act, 2003 to get an independent electricity connection at the property. Hence, the petitioner's prayer, to which the CESC Limited does not have any objection on principle, to get a reconnection of the electricity supply, cannot be resisted.

Inasmuch as the contentions of the private respondents with regard to the legality or illegality of

the possession of the petitioner is concerned, the same is the subject-matter of the eviction suit pending between the parties and it is for the civil court to decide finally on such issue. Such issue, however, is beyond the domain of the writ court to decide while hearing an electricity petition.

In view of the above circumstances and findings, WPA No. 7623 of 2023 is disposed of by directing the CESC Limited to restore the electricity supply at the premises-in-question in the name of the petitioner, subject to compliance of all formalities by the petitioner on such score, preferably within a fortnight from the date of compliance of such formalities by the petitioner. Such requisite formalities shall be intimated by the CESC Limited to the petitioner within a week from date.

In the event any obstruction is created by the private respondents and/or their men and agents in the CESC Limited personnel giving such restoration, it will be open to the CESC Limited personnel to approach respondent no.4, the Officer-in-Charge, Jadavpur Police Station to give adequate police assistance, which will be given by respondent no.4 by acting on a server copy of this order, at the cost of the petitioner.

It is, however, made clear that nothing in this order and/or the restoration of the electricity connection in the name of the petitioner shall create any special right or equity in favour of the petitioner which the petitioner otherwise does not have in law and shall not prejudice the rights and contentions of either party in the pending eviction suit.

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.)