

AD-04
Ct No.09
06.06.2023
TN

WPA No. 9786 of 2023

Raj Kishore Gupta
Vs.
Calcutta Electric Supply Corporation Limited
and others

Mr. Kishore Datta,
Mr. Tanoy Chakraborty,
Mr. Chhandak Dutta

.... for the petitioner

Mr. Debanjan Mukherji

.... for the CESC Limited

Mr. Shyamal Chakraborty,
Mr. Bimlesh Kumar Jain

.... for the private respondents

The learned Senior Advocate appearing for the petitioner makes a two-fold submission in the context of the report filed by the Calcutta Electric Supply Corporation Limited (CESC Limited) and the exception filed thereto by the private respondents. It is submitted that since the private respondents have raised an issue as to it being not feasible to shift the existing meter board position due to the functioning of a nearby treatment centre, where patients are brought by wheel chairs, stretchers etc., which allegation is refuted by the petitioner, the CESC Limited may be directed to have an inspection and submit a report in that regard, exploring whether the existence of the

said treatment centre, if any, would create any hindrance to the smooth passage to and fro the same.

Alternatively it is submitted on behalf of the petitioner that the meter of the petitioner alone can be shifted within the office premises of the petitioner. It is further submitted that such directions are necessary in view of the repeated attempts of the private respondents/owners to disrupt the smooth electricity supply of the petitioner.

It is next argued on behalf of the petitioner that the right to get electricity is not only endorsed by Section 43 of the Electricity Act, 2003 but is an essential component of the right to life as enshrined in Article 21 of the Constitution of India. It is submitted that several decisions of this court and the Supreme Court have settled the legal position that even for the enforcement of a fundamental right against a private person, a direction or a writ under Article 226 of the Constitution may be issued.

Hence, it is submitted that this court is not fettered in exercise of Article 226 of the Constitution of India to pass necessary directions for shifting of the electricity meters at the premises, particularly in view of the CESC Limited itself being of the opinion that such shifting is possible to an alternative location.

Such contentions are refuted by learned counsel appearing for the private respondents.

Learned counsel for the CESC Limited submits that it is beyond the authority or powers of the CESC Limited to conclusively examine as to whether there would be any impediment or hindrance in the functioning of any treatment centre, if existing near the premises-in-question, if the installation-in-question is undertaken.

It is further submitted by learned counsel for the CESC Limited that the petitioner's prayer as to isolated shifting of only the meter of the petitioner to a position within the office premises of the petitioner, is not possible. Due to the existing position of the meter board and in view of the situation at the premises, it would only be possible to shift the entire set of meters existing at the premises together to an alternative location, if at all. It is submitted that such shifting in isolation is not possible due to technical reasons as well.

Upon hearing learned counsel for the parties, it transpires that the CESC Limited has specifically disclosed in its report that they have the option of shifting all the existing meters to the outside wall of the office chamber of the petitioner subject to the

petitioner constructing a meter board shed by removing the window of the office room wall.

However, such shifting would, in any event, tantamount to permitting the petitioner, who is not the owner of the premises but is in occupation of the same, in whatever capacity, to effect permanent alterations to the premises against the wishes of the owners, since the owners specifically object to such addition/alteration being made to the premises by removing the window of the office room wall which belongs to the private respondents/owners.

That apart, since there are already two subsisting civil suits pending between the private parties, it would not be appropriate for this court, sitting in writ jurisdiction over an electricity matter, to pass a direction which might transgress the jural relationship between the petitioner and the private respondents.

Whether the petitioner is a tenant or an occupant otherwise in respect of the premises shall be decided in the pending civil suits. However, since the petitioner is already enjoying an electricity connection at the premises, it cannot be said that the fundamental right to life of the petitioner is being hampered in any manner at present.

Moreover, merely on the basis of an apprehension that the private respondents may disconnect the electricity of the petitioner repeatedly, a permanent shifting of the entire connection upon effecting an alteration by removing a window of a particular room of the private respondents' property ought not to be permitted within the limited scope of the present matter. In any event, the petitioner will be at liberty to approach the civil courts for necessary reliefs in the event the petitioner apprehends any disruption of its electricity supply by the respondents.

However, the limited scope of the present writ petition does not permit this court to pass any direction of such shifting as sought, even if the CESC Limited deems the same to be technically probable, in view of the specific objection in that regard taken by the private respondents/owners.

In such view of the matter, no further relief can be granted in the present writ petition.

Accordingly, WPA No. 9786 of 2023 is disposed of in the light of the above observations, granting liberty to the petitioner to make proper applications for appropriate reliefs, if otherwise maintainable in law, before the civil courts in the pending civil suits.

Since no affidavits have been invited in the matter, it is deemed that none of the allegations made

in any of the pleadings and/or the exception filed to the report of the CESC Limited are admitted by any of the parties.

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.)