

D/L. 8.
May 15, 2023.
MNS.

WPA No. 10577 of 2023

Mamtaz Begum
Vs.
CESC Limited and others

Mr. Soumya Ray,
Ms. Vaswati Banerjee,
Ms. Anwesh Saha

... for the petitioner.

Ms. Sreemoyee Mitra

...for the CESC Limited.

Mr. Abhisek Banerjee

...for the respondent no. 5.

A peculiar predicament has arisen in the present case. The petitioner apparently applied for enhancement of load of electricity, although the petitioner does not have electricity connection in her name at the premises-in-question.

It is submitted by learned counsel for the petitioner that, despite the petitioner seeking a new electricity connection, due to objection raised by the private respondents, such connection could not be given to the petitioner. The petitioner places reliance on an order of injunction dated June 13, 2019 passed in Title Suit No. 256 of 2019 by the Civil Judge (Senior Division), Third

Court at Howrah, whereby the defendants in the partition suit of the petitioner's husband were restrained from transferring, alienating and encumbering the suit property in favour of any third party/stranger and/or also from changing the nature and character of the suit property.

Learned counsel appearing for the CESC Limited submits that the petitioner has not yet applied for a new electricity connection in her name. As such, the present writ petition may be premature.

By placing reliance on Annexures P6 and P7 respectively at pages 35 and 36 of the writ petition itself, it is pointed out that the petitioner's representation was only for strengthening of the electricity services, to be specific, a request for extension of load (existing consumer).

However, since it is submitted now by the CESC Limited that the petitioner does not have any electricity connection in her name at all at the premises, no question of extension of load can arise at her behest.

Learned counsel appearing for the private respondent no. 5, while controverting the allegations made in the writ petition, submits that neither the petitioner nor her husband, although

her husband is a co-owner, is in actual physical possession of the disputed property.

Hence, the petitioner, in this method, is seeking to gain a foothold as regards possession in respect of the disputed property.

It is further pointed out by private respondent no. 5 that the order of injunction does not carry any finding regarding possession of the petitioner's husband, who is the plaintiff in the suit. As such, it is evident that the petitioner or her husband is not in possession of the property.

Upon hearing learned counsel for the parties, it is clear from the records that the CESC Limited is right in pointing out that the present writ petition is premature since no application has yet been filed by the petitioner in getting an electricity connection at the premises.

As such, the remedy of the petitioner lies in making a fresh application for getting new electricity connection.

If such an application is made, the CESC limited shall scrutinize and process the same and, upon holding an inspection, shall ascertain as to whether the petitioner is in *prima facie* settled occupation of the premises and whether it is feasible to give electricity connection to the

petitioner. If such an application is made by the petitioner at all, the CESC Limited shall raise a quotation and give the estimate. Upon compliance of all formalities by the petitioner, such connection shall be given to the petitioner.

It is made clear that, in the capacity of a co-owner, the petitioner's husband is entitled to get an electricity connection at the premises, since it is well-settled that the possession of one co-owner operates as a joint possession of the other as well.

Be that as it may, since the electricity connection requires the test of actual settled occupation of the proposed consumer to be satisfied, the CESC limited, while making inspection, shall also ascertain such aspect of the matter.

However, nothing in this order shall create any special right or equity in favour of either of the parties.

WPA No. 10577 of 2023 is disposed of in the light of the above observations.

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.)