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08.06.2023
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In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 12250 of 2023

Sk. Waris Hossain
-vs.-
CESC Limited & Ors.

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Neha Singh
...for the petitioner

Mr. Debanjan Mukherjee
...for the CESC Limited

At the outset, learned counsel appearing for the CESC Limited submits that although there was a previous direction for service of copies of the report on both the petitioner and the private respondent, the learned advocate for the private respondent could not be located and, as such, no copy of the report could be served on him.

However, since it appears from the report itself that during inspection the petitioner, the private respondent as well as the police officials of Ekbalpur Police Station were present and since the private respondent no. 4 was duly represented through counsel on the last occasion when the matter was taken up for hearing, that is, on May 19, 2023, the matter is being taken up without such service of copy of the report on the private respondent.

An inspection report filed today by the Calcutta Electric Supply Corporation Limited (CESC Limited) be kept on record.

It is revealed from the said report that according to the CESC Limited, a technically suitable space is available in the premises-in-question for installation of a new meter at the existing meter board position. As such, the CESC Limited expresses its readiness to provide a new metered connection at the existing meter room to the petitioner, subject to necessary payment and compliance of all formalities by the petitioner and availability of access to the meter room.

None appears for the private respondent at the time of call. Although the private respondent was represented on May 19, 2023 and at the time of the inspection, as per the report submitted by the CESC Limited, the private respondent chooses to abstain from today's hearing.

The order dated May 19, 2023, which was passed in presence of all contesting parties, shows clearly that the ground of objection of the private respondent no. 4 to the petitioner taking electricity connection is that the petitioner is, thereby, trying to encroach upon the portion of property occupied by the respondent no.4/landlady.

However, it is well-settled that a person in settled possession of a property, in the present case a tenant (as the petitioner claims to be), is entitled to get

electricity connection in his/her own name irrespective of the legality or otherwise of his/her possession.

As such, the objection of the landlady is on a flimsy pretext, since mere giving of an electricity connection cannot, in any manner, tantamount to vest possessory rights on the consumer with regard to the property and/or create any special right in favour of the consumer if the consumer does not have it otherwise in law.

Hence, keeping the said report on record, W.P.A. No. 12250 of 2023 is allowed, thereby directing the CESC Limited to give electricity connection to the petitioner at the position which was found feasible by the CESC Limited, as reflected in its report, within a fortnight from date and/or from the date of compliance of all formalities by the petitioner, whichever is later.

Such connection shall be given by the CESC Limited from the existing meter board position at the premises. If any obstruction is raised by the private respondent no. 4 or her men or agents, it will be open to the CESC personnel to approach the respondent no. 3 herein, that is, the Officer-in-Charge of the Ekbalpore Police Station, for providing adequate police assistance.

If so approached, the respondent no. 3 shall act on the communication of the learned counsel for the parties and/or a server copy of this order without insisting upon prior production of a certified copy

thereof and provide such assistance at the petitioner's cost.

If need be, the police personnel will be at liberty to remove any padlock, if put up by the respondent no. 4 to prevent the access of the CESC personnel, for the limited purpose of giving such connection to the petitioner from the existing meter board position.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)