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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 12969 of 2023

Smt. Ratna Bhowmick
Vs.
The Calcutta Electric Supply
Corporation Limited & Ors.

Mr. Prantick Ghosh,
Mr. Prasad Bhattacharyya
...for the petitioner

Mr. Suman Ghosh
...for the CESC Limited

Mr. Sanajit Ghosh,
Mr. Raja Ghosh
...for the respondent nos. 6 and 7

Learned counsel for the petitioner contends that the electricity connection which was there at the premises-in-question, which has since been purchased by the petitioner, was disconnected. Thereafter, the petitioner sought a new electricity connection in the petitioner's name, which has not been given by the Calcutta Electric Supply Corporation Limited (CESC Limited), apparently due to the objection by the private respondents.

Learned counsel appearing for the private respondents opposes the prayer made in the writ petition. It is submitted on behalf of the private respondents that there was no disconnection at any point of time and the petitioner is still enjoying electricity from the existing connection at the premises.

It is further submitted that the petitioner is not entitled to seek a new electricity connection in view of Section 135, read with Section 42, of the Electricity Act, 2003 (for short “the 2003 Act”).

It is argued that, within the contemplation of Section 135(1)(e), whoever dishonestly uses electricity for the purpose other than for which usage of the electricity was authorized, is committing theft, which is punishable under the 2003 Act. In the present case, after taking possession of the premises, the petitioner is using the same for the functioning of a political party, which is not the original purpose for which it was used. Hence, it is submitted that the petitioner is guilty of theft of electricity.

That apart, within the contemplation of Section 42(5) and (6) of the 2003 Act, every

Distribution Licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines made by the State Commission. Moreover, any consumer who is aggrieved by non-redressal of his grievances under Sub-Section (5), may make a representation for the redressal to an authority to be known as Ombudsman, to be appointed or designated by the State Commission. Hence, the petitioner's remedy lies in the present case, it is submitted, before the Ombudsman and not this court.

Learned counsel appearing for the private respondents next relies on Regulation No. 53 of the West Bengal Electricity Regulatory Commission, Clause 14 of which stipulates the effect of splitting of load. It is argued that in the present case, since the petitioner seeks a new connection for the purpose of splitting of load, despite using the previous connection at the premises, the said provision is attracted and the electricity connection cannot be given in the name of the petitioner.

Learned counsel appearing for the CESC Limited submits, on instructions, that the electricity connection at the premises-in-question is still live. However, the same is in the name of the erstwhile consumer, who is the deceased mother of the private respondents. Hence, the CESC Limited is required to remove the said connection, which is continuing in the name of a deceased person, and is agreeable to give the new connection to the petitioner subject to the previous apparatus being removed.

Upon hearing learned counsel for the parties, it transpires that there is no dispute as to the petitioner having purchased the property-in-question and being in occupation thereof. It is well-settled that a person in settled possession of a property is, within the contemplation of Section 43 of the 2003 Act, entitled to get independent electricity connection in her/his name.

Insofar as the present case is concerned, the CESC Limited is justified in arguing that the live connection at the premises cannot continue in the name of a deceased person and hence, is required to be disconnected in terms of law and Regulations.

Since the CESC Limited does not have any objection otherwise to give a new electricity connection to the petitioner, as the petitioner has complied with all formalities, there cannot be any issue from such end as well.

Inasmuch as the arguments of the private respondents are concerned, they have no *locus standi* to object to the petitioner's enjoyment of electricity in her name, in view of the property having already been sold to the petitioner and the petitioner being the owner and occupier of the same.

That apart, the argument on Section 135(1)(e) cannot have any bearing in the present case, since the petitioner is seeking a new connection, which shall not be circumscribed by any prior electricity connection or the purpose for which such prior connection was taken. Section 135(1)(e) only applies when an electricity connection is taken for a particular purpose but is being used for other purpose. Since, in the present case, the petitioner is seeking a fresh electricity connection, the stage of changing purpose has not come as yet, and the said clause cannot be applicable.

The applicability of Section 42 of the 2003 Act is also not acceptable, since the dispute raised by the present petitioner does not fall within the ambit of those, which are to be redressed by the Ombudsman.

This is no dispute of a consumer of electricity with the Distribution Licensee but a dispute sought to be raised by the private respondents, who are entirely third parties vis-à-vis the licensee and the consumer.

In view of the above reasons, the petitioner is well entitled to get electricity connection at the premises.

Accordingly, WPA No. 12969 of 2023 is allowed, thereby directing the CESC Limited to give electricity connection to the petitioner, upon removal of the previous apparatus and disconnection of the previous supply in the name of the deceased erstwhile consumer lying at the premises.

In the event the CESC personnel are obstructed from doing so, it will be open to the said personnel to approach the respondent no. 5, the Officer-in-Charge of the Baranagar Police Station,

to provide adequate police assistance in that regard, at the cost of the petitioner.

It is further clarified that if any padlock or other hindrance is put up by the private respondents or their men and agents, it will be open to the police personnel to remove the same for the purpose of giving access to the CESC personnel.

The parties shall act on the server copy of this order, without insisting upon prior production of a certified copy thereof.

It is expected that the CESC Limited shall complete the entire procedure of removal of the existing connection and disconnection of the same as well as giving a new connection to the petitioner expeditiously, preferably within three weeks from date.

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.)