

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13756 of 2023

Chandra Kanta Roy
Vs.
The State of West Bengal & Ors.

Mr. Abhisek Banerjee
...for the petitioner

Mr. Debjit Mukherjee,
Ms. Rupsa Chakraborty
...for the State-respondents

Mr. Om Narayan Rai,
Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Uttam Chakraborty
...for the respondent no. 7

Learned counsel appearing for the petitioner contends that a final order of assessment was made on the allegation of unauthorized use of electricity. It is submitted that the allegation of the Calcutta Electric Supply Corporation Limited (CESC Limited) was that the petitioner has given unauthorized extension of electricity from his meter.

It is further contended that initially the property was a joint property where two electricity meters were situated in the names of the petitioner and the private respondent, who are brothers. Subsequently, there was a mutual partition

between the two, upon which the petitioner surrendered his previous meter. Thereafter, a new electricity meter was taken by the petitioner, which has now been disconnected on the allegation of unauthorized use.

Learned counsel for the private respondent submits that the private respondent is enjoying a separate electricity connection in his portion of the premises and, as such, no unauthorized extension of electricity was perpetrated by the said private respondent.

Learned counsel appearing for the CESC Limited submits on instruction that there were three instances of disconnection on the allegation of unauthorized use.

First, on May 05, 2015, the previous meter of the petitioner was disconnected and a final order of assessment was made to the tune of Rs.2,19,961/-.

A second disconnection was effected on December 22, 2017, in respect of a meter standing in the name of the private respondent. On such occasion, a final order of assessment was made to the tune of Rs.20,366/-.

The present one is the third disconnection, which was effected on March 03, 2023. The final order of assessment was to the tune of Rs.10,782/-. Since the said final order of

assessment was raised as long back as on March 20, 2023, it is submitted that a challenge against the same under Section 127 of the Electricity Act, 2003 is barred by limitation.

Considering the submissions of the parties, it transpires that there is factual dispute between the parties, which has to be decided upon considering evidence and cannot be resolved by the writ court. However, at this juncture, learned counsel for the petitioner, on instruction, submits that the petitioner is agreeable to deposit the entire amount of finally assessed bill to get back the electricity connection.

Upon considering the submissions, W.P.A. No. 13756 of 2023 is disposed of by granting liberty to the petitioner to pay the entire final assessment amount in respect of the concerned electricity meter-in-question along with all previous dues and charges, if any, which the petitioner is liable in law to pay. Upon such payment, the CESC Limited shall restore the electricity supply of the petitioner.

However, in the event the petitioner does not put in all dues in accordance with law, there is no scope of interference in the present writ petition, since the challenge is primarily to a final order of assessment, which is amenable to an appeal before the appropriate appellate authority within the

conspectus of Section 127 of the Electricity Act, 2003.

Hence, in the event the petitioner is not willing to deposit all dues with the CESC Limited, it will be open to the petitioner to prefer an appeal under the said provision, subject, of course, to the law of limitation.

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.)