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22.06.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13777 of 2023

Soma Das
Vs.
The State of West Bengal & Ors.

Mr. Somnath Mukherjee,
Ms. Trishna Sarkar
...for the petitioner

Mr. Uday Sankar Bhattacharya
...for the CESC Limited

Despite service, none appears for the private respondent, although the Calcutta Electric Supply Corporation Limited (CESC Limited) and the petitioner are represented through counsel. Affidavit-of-service filed in Court today be kept on record.

The petitioner contends that the petitioner is the owner of the property by purchase and has got the property mutated in the name of the petitioner. Even thereafter, and despite having obtained a trade license for carrying on a business on the property, when the petitioner applied for an electricity connection in her name, the CESC Limited was not able to give such connection due to resistance by the private respondent no. 8.

It is submitted that the private respondent no. 8 has initiated a proceeding under Section 144(2) of the Code of Criminal Procedure against the petitioner. That apart, a civil suit has been initiated by the private respondent against the petitioner. However, the prayer for *ex parte* ad interim injunction made by the private respondent/plaintiff in the said suit was refused by the civil court. A true copy of the said order has also been annexed to the present writ petition.

Learned counsel appearing for the CESC Limited submits that the CESC Limited could not give electricity connection to the petitioner due to resistance by the private respondent no. 8.

It is seen from the materials annexed to the writ petition that the petitioner has proved sufficiently that the petitioner is in *prima facie* settled possession of the property, having purchased the same and mutated the same in her own name.

Since the petitioner has a trade licence and has applied for electricity connection in due course of law, the resistance by the private respondent is misconceived.

In any event, the petitioner is entitled under Section 43 of the Electricity Act, 2003 to have an

independent electricity connection at the premises in her own name.

Accordingly, W.P.A. No. 13777 of 2023 is allowed, thereby directing the CESC Limited to give a new electricity connection to the petitioner at the premises-in-dispute as expeditiously as possible, positively within a week from the date of compliance of all formalities by the petitioner or this order, whichever is later.

In the event the CESC personnel are obstructed by the private respondent or his men and agents, it will be open to the CESC personnel to approach the respondent no. 3, that is, the Officer-in-Charge of the Maheshtala Police Station, who will act on a server copy of this order and give adequate police assistance to the CESC personnel for the purpose of compliance of this order, at the cost of the petitioner.

In the event any padlock or other hindrance is put up by the private respondent, it will be open to the police personnel to remove the same for the limited purpose as indicated above.

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.)