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16.03.2023
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 17319 of 2022

**Md. Khurshid Alam
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Manas Malakar,
Mr. Aninda Lahiri.
...For the Petitioner.**

**Ms. Sima Chakraborty,
Ms. Suranjana De Sarkar.
...For KMC.**

The petitioner applied for obtaining commercial filter water connection. The Certificate of Enlistment of the petitioner was annexed with the said application.

The Executive Engineer, Central, Water Supply Department intimated the learned advocate appearing for the petitioner that for obtaining new filter water connection for business purpose, the applicant has to apply through Kolkata Municipal Corporation licensed plumber with necessary documents along with consent of the recorded owner of the premises.

The petitioner is aggrieved by the same.

It has been submitted that under law there is no requirement of obtaining consent of the recorded owner. There is also no requirement of making application through the Kolkata Municipal Corporation licensed plumber.

In support of the aforesaid submission the petitioner relies upon the judgment passed by this Court on 18th May, 2017 in WP 288 of 2017 (M/s. Abdul Khalique & Sons Restaurant -vs- Kolkata Municipal Corporation & Ors.) wherein the Court clearly held that a certificate from the empanelled plumber is not mandatory to proceed with the application for supply of water for commercial purpose.

The applicant is only required to specify the purpose for which the supply is required and the quantity likely to be consumed. If the aforesaid two parameters are intimated, the Corporation ought to proceed with the said application.

Reliance has also been placed on the judgment delivered by this Court in the matter of Abhimanyu Mazumdar -vs- Superintending Engineer & Anr. reported in AIR 2011 CAL 64 wherein the Full Bench of this Court was of the opinion that a person who is in settled possession of the property be it unauthorized occupiers, encroachers or squatters is free to apply for supply of electricity without consent of the owner and is entitled to get electricity and enjoy the same till he is evicted by due process of law.

It has been submitted that drawing analogy from the aforesaid decision, since availability of water will be one of the fundamental rights of the petitioner, accordingly, being a licensee the petitioner will be entitled to receive water from the Corporation.

Learned advocate appearing for the Kolkata Municipal Corporation relies upon the instruction forwarded by the Executive Engineer and the Assistant Engineer, Water Supply (Central), Kolkata Municipal

Corporation wherein it has been mentioned that for giving new connection, physical existence of business house along with necessary papers are essential. As per KMC rules and practice, for giving new water connection, consent from the recorded owner is required.

Physical inspection of the site revealed that there is no existence of the business running under the name of M/s. K.A. Eating House and the petitioner was found to run his business at Rahamania Hotel which is in the front side of the house in which the petitioner intends to obtain the water connection.

Reliance has been placed on Sections 239 and 320 of the Kolkata Municipal Corporation Act in support of the submission that all works are to be conducted under the supervision of the licensed plumber of the Corporation.

From the submissions made on behalf of the parties, it appears that a formal application was made by the petitioner seeking commercial water connection.

The Corporation erroneously directed the petitioner to obtain consent from the recorded owner of the premises. The same is not an essential condition for obtaining water connection.

According to the provisions of the Act, there is no requirement of making application through the Kolkata Municipal Corporation licensed plumber. Law only requires that the work in question has to be executed by the licensed plumber.

In the present case, the application of the petitioner is yet to be considered. After the Corporation grants permission for obtaining water connection, then only the applicant will be required to execute the work under the supervision of the licensed plumber.

Prior to the same, there is no requirement of applying through any licensed plumber. The same has been laid down by this Court in the matter of M/s. Abdul Khaliq & Sons Restaurant (supra).

The consent of the landlord is also not required as laid down by the Full Bench of this Court in the matter of Abhimanyu Mazumdar (supra).

In view of the above, the Commissioner of the Kolkata Municipal Corporation is directed to process the application filed by the petitioner for obtaining new commercial water connection. The formalities to be complied by the petitioner shall be intimated.

Steps shall be taken in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

The writ petition is thus disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)