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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 17315 of 2023

Nitai Mondal @ Nitay Mondal
Vs.
The Calcutta Electric Supply
Corporation & Ors.

Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee,
Ms. Trisha Rakshit,
Mr. Rajarshi Tah
...for the petitioner

Mr. Somnath Bose
...for the CESC Limited

Mr. Jayanta Samanta,
Mr. Sanjib Dutta
...for the State

Affidavit-of-service filed today be kept on record.

Written instruction filed by the State be kept on
record.

Learned counsel appearing for the petitioner
places reliance on an order passed under Section
151 of the Code of Civil Procedure by the Civil
Judge (Junior Division), Fourth Court at Alipore in
Title Suit No. 1770 of 2019, which is an eviction
suit instituted by the private
respondents/landladies.

By virtue of the said order, the
petitioner/tenant obtained an order whereby the
petitioner's application was disposed of by

permitting the defendant/petitioner to install electric meter in the suit shop room at the petitioner's cost.

It appears from the said order that the court recorded that the petitioner has been running a grocery business from the main meter of the plaintiffs/private respondents in the premises-in-question and, as such, is in settled possession of the property.

However, despite having applied for a new connection, the petitioner has not got the same.

Learned counsel appearing for the Calcutta Electric Supply Corporation Limited (CESC Limited) submits that the petitioner initially applied for change of name in the electricity meter of the private respondents. However, the same was abandoned midway and a new application for connection has now been made. The CESC Limited does not have any objection to give the same, subject, however, to appropriate police help being given in view of obstruction raised by the private respondents and their men and agents.

It transpires from the order of the civil court, annexed to the writ petition, that the petitioner is *prima facie* in settled possession of the property.

Since an eviction suit has been instituted by the private respondents, such possession is, in any event, admitted by the private respondents as well.

Since the eviction suit is subsisting between the petitioner and the private respondents, there is no scope of observing that there is any ploy of splitting of load by the petitioner by way of filing of an application for new electricity connection. Hence, there is no impediment in giving such connection to the petitioner, irrespective of any objection which might be raised by the private respondents.

Accordingly, W.P.A. No. 17315 of 2023 is allowed, thereby directing the CESC Limited to process the application for new electricity connection made by the petitioner in respect of the premises-in-question expeditiously and, upon compliance of all formalities by the petitioner, to give such connection to the petitioner as expeditiously as possible, preferably within a fortnight from date and/or from the compliance of the formalities, whichever is later.

In the event any resistance is offered by the private respondents, the CESC personnel will be at liberty to approach the respondent no. 4, that is, the Officer-in-Charge of the Patuli Police Station, who will act on a server copy of this order and provide such assistance to the CESC personnel, at

the cost of the petitioner, to ensure that the CESC personnel have access to the existing meter board position for giving electricity connection to the petitioner.

If need be, the police personnel will be at liberty to remove any padlock or other hindrance for such purpose.

It is made clear that the electricity connection, as and when given, shall not prejudice the rights and contentions of the petitioner and/or the private respondents in the pending civil suit between them.

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.)