

AD-10
Ct No.09
06.09.2023
TN

WPA No. 19368 of 2023

Narayan Shaw Memorial Foundation
Vs.
CESC Limited and others

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

.... for the petitioner

Mr. Jayanta Kumar Dhar

.... for the CESC Limited

Mr. Amal Kumar Roy

.... for the respondent no.4

- 1.** Learned counsel for the petitioner submits that the petitioner is a purchaser of a portion of the property-in-question and seeks an electricity connection there which cannot be given due to obstruction by the private respondent.
- 2.** Learned counsel for the private respondent, who is a co-owner, contends that the private respondent has challenged a gift deed, executed in favour of one of the other co-owners, who is the vendor of the petitioner. Upon such challenge having failed before the trial court, an appeal is now pending at the behest of the private respondent before the appellate court.

- 3.** It is submitted that as such, the purchase by the petitioner from his vendor is itself suspect and sub judice.
- 4.** It is further contended that Section 44 of the Transfer of Property Act debars the petitioner, being a stranger, from entering into a dwelling house by operation of law. As such, the petitioner is not entitled to have an electricity connection in the petitioner's own name. Learned counsel for the private respondent further argues that there is no urgency for the petitioner to have an electricity connection in its own name, since there is already existing electricity connection at the disputed property.
- 5.** Learned counsel for the CESC Limited submits that the CESC Limited is required to hold an inspection prior to giving a quotation to the petitioner.
- 6.** It transpires that although the legality of the petitioner's possession of the property is squarely disputed by the private respondent, the petitioner is in occupation of a portion of the property, be such occupation lawful or unlawful in the eye of law. It is well-settled that a person in settled possession is entitled to electricity under Section 43 of the Electricity Act, 2003.

- 7.** Needless to say, an electricity connection *per se* cannot create any special right or equity in favour of the petitioner and/or prejudice the contentions of the private respondent in any court of law in any manner whatsoever. However, the petitioner, as an occupant, is entitled to get electricity, if the petitioner complies with due formalities otherwise.
- 8.** Accordingly, WPA No. 19368 of 2023 is disposed of by directing the CESC Limited to hold an inspection for the purpose of ascertaining the feasibility of giving an independent connection to the petitioner at the premises-in-question within a week from date.
- 9.** The CESC Limited shall, if it is so feasible, raise an estimate within a week thereafter and issue a quotation to the petitioner.
- 10.** Subsequently, the petitioner shall comply with all due formalities and within a fortnight from such compliance, the CESC Limited shall give electricity connection to the petitioner at the premises.
- 11.** On both occasions, that is, at the time of inspection and at the time of giving connection to the petitioner, if the CESC Limited personnel face any hindrance from the respondent no.4 and/or

his men and agents, it will be open to the CESC Limited personnel to approach respondent no.3, the Officer-in-Charge, Behala Police Station who will act on a server copy of this order and give adequate police assistance to the CESC Limited at the cost of the petitioner, if need be, by breaking open any padlock or other hindrance to give such access to the CESC Limited personnel on both such occasions.

- 12.** It is, however, reiterated that the said connection, when given to the petitioner, or anything in this order shall not create any special right or equity in favour of the petitioner which the petitioner does not otherwise have in law or legalize the occupation of the petitioner. The connection shall be without prejudice to the rights and contentions of the private parties in any pending or to-be-filed legal proceeding before any court of law.
- 13.** There will be no order as to costs.
- 14.** 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.)