

5<sup>th</sup> October,  
2023  
(AK)  
10

**W.P.A 20282 of 2023**

Sanjib Mondal  
Vs.  
The CESC Limited and others

Mr. Sunny Nandy  
Mr. Subha Pathak

...for the petitioner.

Mr. Brotindro Mullick  
Ms. Ankita Halder  
Mrs. Poulomi Paul Maity

...for the CESC Limited.

Mr. Dipankar Dhar  
Mr. Rudra Dhar

...for the private respondent nos. 4 & 5.

1. Learned counsel for the petitioner submits that the petitioner is in occupation of the property and cites an ad interim order obtained by the petitioner from a civil court in connection with a suit instituted by the petitioner against the private respondents.

2. It is contended that however, when the petitioner applied for electricity connection, the CESC Limited could not give such electricity due to resistance by the private respondents.

3. Learned counsel for the CESC Limited also submits that no inspection could be held due resistance by the private respondents.

4. Learned counsel for the private respondents contends that the petitioners are not in possession of the property at all. The possession of the petitioner, in any event, is not settled possession to entitle the petitioner to get electricity connection.

6. Learned counsel for the private respondents places reliance on a complaint filed by the private respondents to the police authorities where they have indicated that the petitioner forcibly entered into possession of the property-in-question.

7. That apart, it is pointed out by learned counsel that admittedly, as mentioned in the writ petition, the petitioner was delivered the flat on or about March, 2018.

8. However, there is no explanation why the application for getting electricity was made so late.

9. It is further argued by learned counsel for the private respondents, by handing over certain photographs, that the flat-in-question is lying vacant and, as such, it cannot be said that the petitioner is in possession of the property.

10. Thus, it is submitted that the present writ petition ought to be dismissed.

11. It is added by learned counsel for the private respondents that they have already filed a vacating application in the civil court which is due to be taken up by the trial court later on in the day.

12. A perusal of the complaint handed over by learned counsel for the private respondents indicates that according to the private respondents, a sealed packed refrigerator and a deity's throne had been allowed to be kept by the petitioner in the said flat by the private respondents.

13. In the said complaint, the private respondents alleged that an agreement was entered into between the petitioner and the private respondents twelve years back, which was never given effect to by executing any deed.

15. From the nature of the contents of the complaint, it is seen that the private respondents admit that an agreement was entered into between the parties, although twelve years back, in respect of the property. That apart, certain articles of the petitioner were also lying in the flat.

16. A perusal of the photographs handed over to court, only indicate that the flat is apparently vacant; however, nothing else is proved regarding who is in actual possession of the said property from the said photographs.

17. The civil court, in its order dated July 26, 2023, has granted injunction to the petitioner, restraining the defendants/private respondents, *inter-alia*, from forcibly evicting the plaintiff/present petitioner from the flat-in-question. It has been also recorded in the said order that

certain tranches of payments have been made by the petitioner in favour of the private respondents.

18. Even keeping in mind that a vacating application at the behest of the private respondents is pending, as of today, the ad interim injunction order is surviving and there is sufficient *prima facie* proof to indicate the petitioner's possession of the property for the limited purpose of grant of electricity connection to the petitioner.

19. As such, WPA 20282 of 2023 is allowed, thereby directing the CESC Limited to hold an inspection of the concerned flat to ascertain the feasibility of giving connection to the petitioner within a week from date.

20. Such inspection shall be held, if necessary, with police help if any resistance is faced by the CESC Limited, for which purpose it will be open to the CESC personnel to approach respondent no.3, the Officer-in-Charge of the Muchipara Police Station, who will provide police assistance at the cost of the petitioner, removing any padlock in the process, if affixed to hinder the CESC personnel on such score.

21. Upon such inspection being held, the CESC Limited shall issue a quotation to the petitioner and upon compliance of all formalities by the petitioner, give electricity connection in the name of the petitioner at the disputed flat within a week from the date of compliance of formalities by the petitioner.

22. On such occasion as well, if any resistance is offered, the CESC personnel shall approach the respondent no.3 who will provide adequate police assistance at the cost of the petitioner, if necessary again removing any padlock if put up to hinder the CESC personnel.

23. It is, however, made clear that nothing in this order shall create any special equity or right in favour of the petitioner which the petitioner otherwise does not have in law.

24. That apart, the observations made herein and/or the direction to give electricity connection to the petitioner shall not adversely affect the right, title, interest and contention of the parties in the civil court, either at the final hearing of the suit or at the *ad interim* stage, in any manner whatsoever.

25. The documents and photographs filed today be kept on record.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**