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26.09.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 21090 of 2023

Md. Arif & Ors.
Vs.
CESC Limited & Ors.

Ms. Srijani Mukherjee,
Mr. Lalratan Mondal
...for the petitioners

Mr. Debanjan Mukherjee,
Mr. Aniruddha Ganguly
...for the CESC Limited

Mr. Ramij Munsi,
Ms. Champa Pal
...for the private respondents

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel appearing for the petitioners argues that the petitioners are tenants in respect of the premises-in-question and places reliance on the photocopies of the purported rent receipts annexed to the writ petition on such score. When the petitioners applied for separate loop metered electricity connections, the CESC Limited (Calcutta Electric Supply Corporation Limited) could not give the same due to resistance by the private respondents, who are the landlords of the premises.
3. Learned counsel appearing for the CESC Limited submits that the petitioner no. 1 initially

applied for a new service connection and a loop meter. Subsequently, the other petitioners have also applied for loop metered connections.

4. When the CESC Limited held the inspection, it was found that there was no meter board shed in position for a new service connection to be given. Otherwise, the CESC Limited does not have any objection on principle to give such connection, subject to construction of a meter board shed and main switch as well as compliance of all usual formalities.

5. Learned counsel appearing for the private respondents submits that the private respondents have objected in writing to the electricity connection being given to the petitioners. The plinth of the objection is that the petitioners, according to the private respondents, are rank trespassers in the property and an eviction suit is already pending at the behest of the private respondents against the petitioners. Moreover, it is contended that the petitioners, by way of taking such connections, are seeking to establish a right in the property, which they do not otherwise have in law.

6. Upon a perusal of the documents annexed to the writ petition and hearing the contentions of the parties, it transpires that the settled possession of the petitioners in respect of the property is not

disputed, particularly since admittedly a proceeding for eviction is pending against the petitioners at the behest of the private respondents.

7. The private respondents assail the legality and lawfulness of such possession. However, the same is the subject-matter of the eviction suit and cannot be decided within the limited conspectus of the writ petition.

8. In view of such possession, the petitioners are entitled to get independent electricity connection in law under Section 43 of the Electricity Act, 2003.

9. As such, W.P.A. No. 21090 of 2023 is disposed of by directing the petitioners to construct a proper meter board shed and main switch immediately at the premises for the purpose of the CESC Limited to give new electricity connections to the petitioners. Immediately upon such arrangements being made, the petitioners shall intimate about the same to the CESC Limited.

10. Immediately upon such intimation being received by the CESC Limited, the CESC Limited shall give a new service connection to the petitioner no. 1 and loop metered connections to all the petitioners from the said service connection, at the premises-in-question.

11. Such entire exercise shall be concluded by the CESC Limited, subject to the compliance of all

formalities as indicated above by the petitioners, within three weeks from the date of compliance of such formalities.

12. In the event any obstruction is raised by the private respondents or their men and agents, it will be open to the CESC personnel to approach the respondent no. 3, that is, the Officer-in-charge, Ekbalpore Police Station, who, on such approach, shall grant adequate police assistance to the CESC personnel, if necessary breaking open any padlock or other hindrance put up to prevent the access of the CESC personnel at the premises, entirely at the cost of the petitioners.

13. For such purpose, the respondent no. 3 shall act on a server copy of this order without insisting upon prior production of a certified copy thereof.

14. It is, however, made clear that nothing in this order or the electricity connections, as when given to the petitioners, shall create any special equity or right in the favour of the petitioners, which the petitioners do not otherwise have in law.

15. It is further made clear that the electricity connections given to the petitioners shall be subject to the outcome of the eviction suit pending at the behest of the private respondents against the petitioners.

16. There will be no order as to costs.

17. 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.