

27th September,
2023
(AK)
15

W.P.A 22715 of 2023

Tapasi Paik and others
Vs.
CESC Limited and others

Mr. Kaustav Banerjee
Ms. Ria Kundu

...for the petitioners.

Mr. Ram Chandra Guchhait

...for the CESC Limited.

Mr. Dipankar Mondal

...for the private respondents.

1. Learned counsel for the petitioners submits that the petitioners are in occupation of a property, being verbally inducted as lessees by the predecessor-in-interest of the private respondents.

2. When the petitioners sought electricity connection individually, the CESC Limited could not give such connection due to obstruction created by the respondents.

3. Learned counsel also hands over a copy of an order dated September 15, 2023 passed in Title Suit No.644 of 2023 pending before the Civil Judge (Junior Division), 2nd Court at Baruipur, District-South 24 Parganas to indicate that the respondents have filed a suit against some of the petitioners and have obtained an order of injunction

directing the defendants not to disturb the plaintiffs' peaceful possession of the property and its dispossession without due course of law.

4. Both parties were directed not to create any third party interest.

5. Learned counsel for the CESC Limited submits that in view of congestion in the locality, since the premises is located in a *Basti* area, a block meter is the only practical solution to give connection to the petitioners, which the CESC Limited is on principle agreeable to give subject to compliance of formalities by the petitioners.

6. Learned counsel for the respondents submits that many of the petitioners are not in occupation of the property at all, such as petitioner nos. 5, 8, 13, 16 and 19. Regarding the possession of petitioner no.18, the respondents are also in some doubt. That apart, it is argued that many of the petitioners are the family members of each other and, as such, are not entitled to independent electricity connections.

8. Moreover, the petitioners are acting adverse to the interest of the present respondents, for which the respondents are not agreeable to concede to the petitioners having electricity connection.

9. Lastly, the private respondents contend that some of the petitioners had been enjoying electricity from the connection of the respondents but due to non-payment by

the petitioners, the same was disconnected by the CESC Limited.

10. Learned counsel for the private respondents submits that the petitioners who are in possession of the property and who were enjoying electricity connection can very well have electricity from the meter of the respondents.

11. Learned counsel for the petitioners, in reply, submits that the Aadhar Cards, Voters ID Cards and/or other identity proofs of all the petitioners have been annexed to the writ petition to establish their possession.

12. Upon hearing learned counsel for the parties, it transpires that despite the pendency of an eviction suit at the behest of the private respondents against some of the petitioners, the very fact of the pendency of such eviction suit indicates that the private respondents have admitted the possession of some of the petitioners, who are defendants therein.

13. However, since the respondents have raised a question of actual physical possession of some of the writ petitioners, we are to look into the documents annexed to the writ petition.

14. It transpires that all the petitioners have furnished some *prima facie* documents to establish their possession of the suit premises, be such possession lawful or unlawful.

15. Moreover, for the limited purpose of giving electricity connection, it is the Distribution Licensee who has to be satisfied as to the proposed consumer being in occupation of the property.

16. If the CESC Limited has no issues on such score, it is not for the court to interfere with such discretion of the Distribution Licensee.

17. Insofar as the apprehension of the respondents is concerned, that the petitioners will claim right or equity on the strength of the electricity connections, if given, the same is misplaced, since mere electricity connection does not or cannot create or confer any right in favour of the petitioners *per se*.

18. However, since the petitioners, as occupants, are entitled to electricity connection, WPA 22715 of 2023 is allowed, thereby directing the CESC Limited to provide electricity connection to the petitioners, subject to the petitioners applying for such electricity connection and complying with due formalities, from a block meter to be installed for such purpose.

19. Such connection shall be given at the earliest, positively within three weeks from this date or the date of compliance of formalities by the petitioners, whichever is later.

20. In the event any obstruction is raised by the private respondents, the CESC personnel shall be free to

approach respondent no.3, the Inspector-in-charge of the Narendrapur Police Station, who will give adequate assistance at the cost of the petitioners, on the strength of a server copy of this order, to enable the CESC Limited to give such connection to the petitioners.

21. It is, however, made clear that nothing in this order and/or the electricity connections, as and when given to the petitioners, shall create any special equity or right in favour of the petitioners which the petitioners do not otherwise have in law and shall not affect or prejudice the rights and contentions of the parties in the pending civil suit or before any other legal forum.

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.)