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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 25751 of 2023

Smt. Kanika Mitra
Vs.
The CESC Limited & Ors.

Mr. Subhendu Bandyopadhyay,
Mr. Arindam Mitra
...for the petitioner

Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Sayantan Rakshit
...for the respondent no. 3

1. Learned counsel for the petitioner submits that the petitioner is a tenant in respect of the property. It is alleged that the petitioner's electricity connection, which was being enjoyed from the respondent no. 3/ landlord, has been disconnected and the landlord has initiated an eviction suit against the petitioner. In the eviction suit, the landlord made an application for injunction restraining the Calcutta Electric Supply Corporation Limited (CESC Limited) from giving electricity connection to the petitioner, which has been refused by the trial court.

2. Due to hindrance created by the landlord, the CESC Limited is not being able to give electricity connection to the petitioner.

3. Learned counsel appearing for the CESC Limited submits that the CESC Limited could not even hold an inspection due to resistance by the landlord and seeks to hold such inspection to ascertain whether disconnection has been effected or not.

4. Learned counsel appearing for the private respondent no. 3/landlord submits that the petitioner has left it unclear as to who disconnected the electricity supply. It is denied that the landlord disconnected the electricity supply.

5. Learned counsel submits that there was a tampering in the electricity line standing in the name of the private respondent, for which the private respondent has taken steps duly for getting the line repaired and the private respondent is ready to give electricity connection again to the petitioner.

6. By placing reliance on the pleadings in the writ petition, it is submitted that the petitioner admittedly entered into an agreement with the landlord/private respondent regarding running the petitioner's business in the shop

room concerned. However, no copy of the said agreement has been annexed to the writ petition.

7. It is, thus, submitted that the fresh connection sought by the petitioner ought not to be given.

8. The petitioner, admittedly, is in occupation of the property, which has been admitted by the private respondent by filing an eviction suit against the petitioner.

9. It is well-settled that electricity is a basic necessity and has been guaranteed not only as an essential component of the right to life under Article 21 of the Constitution of India but under Section 43 of the Electricity Act, 2003 irrespective of the lawfulness or otherwise of physical possession.

10. The petitioner, being in settled occupation, is evidently entitled to get an independent electricity connection. Insofar as the question of the petitioner getting electricity connection from the private respondent/landlord is concerned, in view of the eviction suit filed by the landlord, the enmity existing between the two parties is indisputable. Hence, it cannot be said that the

present application is collusive between the petitioner and the landlord.

11. In any event, the petitioner need not remain at the mercy of the landlord to get electricity connection, which she entitled to get as a matter of right independently as a tenant of the property against whom an eviction suit is pending.

12. However, the rights of the respective parties with regard to the property shall be finally and conclusively decided by the competent civil court in the pending suit.

13. Accordingly, W.P.A. No. 25751 of 2023 is allowed, thereby directing the CESC Limited to hold an inspection within a fortnight from date upon prior notice to the petitioner as well as the private respondent.

14. Upon such inspection being held, the CESC Limited shall raise a quotation to the petitioner within three days thereafter.

15. Upon the petitioner complying with all formalities with regard to such quotation, the CESC Limited shall give electricity connection to the petitioner independently from the existing meter board position of the concerned premises within a week from the date of compliance of the formalities by the petitioner.

16. At any stage, either at the time of holding the first inspection or at the time of giving electricity connection, if the CESC personnel face any obstruction from the respondent no. 3 and/or his men or agents in any manner, it will be open to the CESC personnel to approach the respondent no. 5, that is, the Inspector-in-Charge, Uttara Para Police Station, who will grant adequate police assistance to assist the CESC personnel in holding the inspection and giving the connection respectively, if necessary by breaking open the padlock or other hindrance put up by the respondent no. 3 to impede the access the CESC personnel.

17. Such police assistance shall be given by the respondent no. 5 by acting on a server copy of this order without insisting upon prior production of a certified copy thereof, at the cost of the petitioner, on both such instances.

18. It is further clarified that nothing in this order or the electricity connection, as and when given to the petitioner, shall create any special right or equity in favour of the petitioner which the petitioner does not otherwise have in law and shall not in any manner affect the rights and contentions of the private parties in the pending civil suits between them.

19. There will be no order as to costs.

20. 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.)