

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 28471 of 2022

Devendra Kumar Chopra
Vs.
CESC Ltd. & Ors.

Mr. Soumya Ray,
Mr. Uttam Basak
... for the petitioner

Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Prabir Kumar Ray
...for the State

Mr. Satyaki Mukherjee,
Mr. Lalit Baid,
Ms. Saberi Saha,
Ms. Moumita Dhar
...for the respondent no. 4

Affidavit-of-service filed in Court today be kept on
record.

Learned counsel appearing for the petitioner
contends that the petitioner was a tenant under the
deceased father of the private respondent.
Subsequently, the private respondent has been
refusing to accept the rent from the petitioner for
which the petitioner has been depositing the same with
the Rent Controller.

However, upon the private respondent having
disconnected the electricity supply of the petitioner,
which was being enjoyed previously by the petitioner

from the connection the landlord, the petitioner applied for a new electricity connection. However, when the CESC personnel came to the premises to give such connection, they were resisted by the private respondent no. 4 and his men and agents from doing so.

Learned counsel appearing for the CESC Limited submits that the CESC Limited has already attempted to give the connection to the petitioner. However, despite the petitioner having complied with the basic formalities for getting the new commercial connection, the same could not be given due to resistance from the end of the private respondent and his men and agents.

Learned counsel appearing for the private respondent no. 4 submits that the petitioner was never inducted by the private respondent as a tenant in respect of the property. That apart, it is contended that whenever the private respondent seeks to serve notice on the petitioner, the petitioner is found absent by the postal peon. As such, it is contended that the allegation as regards the petitioner being in occupation of the premises at all, is suspect.

Heard learned counsel for the parties.

Although the private respondent has made an allegation as regards the petitioner being absent at the premises at the relevant juncture, even without going into the question as to whether the petitioner is

deliberately avoiding service of notice by the private respondent, it is at least clear that the petitioner was present when the CESC personnel went to the premises to give the electricity connection.

In view of the allegations and counter-allegations made in the writ petition, it is not appropriate for the writ court, without proper factual enquiry on the basis of assessment of material evidence, to enter into a finding as to the respective right, title, possession and interest of the private parties in the property. Since the CESC Limited *prima facie* found that the petitioner is eligible to get electricity connection, there is no impediment for the CESC Limited to give such connection.

W.P.A. No. 28471 of 2022 is disposed of accordingly by directing the CESC Limited to give a new commercial electricity connection, at the existing meter board position, to the petitioner as per the petitioner's application positively within a fortnight from date.

If the CESC personnel are resisted by the respondent no. 4 while doing so, they will be at liberty to approach the respondent no. 3, the Officer-in-Charge, Jorabagan Police Station for police assistance.

If so approached, the respondent no. 3 shall act on the server copy of this order without insisting upon

prior production of a certified copy thereof and grant such assistance at the cost of the petitioner.

In the event any padlock and/or other hindrance is put up on the way of access of the CESC personnel in performing the aforesaid task, the police personnel will be at liberty to remove such padlock/hindrance for the limited purpose of assisting the CESC personnel in giving the connection to the petitioner.

It is, however, made clear that mere giving of electricity connection in the name of the petitioner at the premises shall not create any special equity, right or interest in favour of the petitioner, which the petitioner does not, otherwise, have in law.

It is also made clear that this Court has not gone into the merits of the respective allegations of the petitioner and the private respondent vis-à-vis their rights *inter se* with regard to the property. It will be open to the parties to canvas such points before any appropriate forum in accordance with law.

There will be no order as to costs.

Police report filed today by learned counsel for the State be kept on record.

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.)