

OD-5

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

WPO/747/2023
IA NO: GA/1/2023

SUNRIT DEB
VS
CESC LIMITED SERVICE
THROUGH THE CHAIRMAN AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 26th April, 2023

Appearance:
Mr. Rohit Das, Adv.
...for the petitioner

Ms. Nilofer Siddique Alam Adv.
...for the State respondent no. 3

Mr. Bidyut Kr. Halder, Adv.
Mr. Indranil Halder, Av.
Ms. Srabanti Das, Adv.
Ms. Neha Singh, Adv.
...for the respondent no. 4

Mr. Debanjan Mukherjee, Adv.
...for the CESC Limited

The Court:- Heard learned counsel for the parties. The petitioner is a landlord of the premises in question, being 9C, Beadon Street, Kolkata-700006. The private respondent, on the other hand, being the tenant in respect of the same premises, had taken out a writ petition previously, bearing WPA No. 5115 of 2023, which was decided vide order dated March 16, 2023 in the presence of the present petitioner/landlord, who was the respondent no. 4 therein.

In the operative portion of such order, the CESC Limited was directed to hold an inspection at the premises in question for the purpose of ascertaining the feasibility of giving new electricity connection to the petitioner therein (present private respondent/tenant) within a week from that date. Upon such inspection, if it was found feasible, such connection was to be given to the petitioner therein (tenant) within a fortnight from the compliance of all formalities by the petitioner at the existing meter board position.

It is seen from the preceding paragraphs of the order that the Court also went on to record that the present petitioner, who was the private respondent no. 4 therein, “does not otherwise have any objection to the electricity connection being given to the petitioner if the petitioner is so entitled otherwise in law”.

It is seen from the further previous paragraphs of the same order that learned counsel appearing for the private respondent no. 4 therein (present petitioner) had submitted on instruction that no prior notice was given at any point of time to him at the juncture when the inspection was sought to be taken by the CESC personnel. As such, the said private respondent no. 4 was well within its right to refuse the entry of the CESC personnel.

It was also recorded that in view of misunderstanding, the private respondent no. 4 therein had objected to the inspection being held.

A composite reading of the said findings of the said order, passed in presence of the present petitioner, clearly goes on to show that the objection of the present petitioner/landlord was only on the premise that no prior notice of inspection was given to him.

It was also recorded that there was a misunderstanding for which the present petitioner had objected to the inspection being held, but otherwise he had no objection to the electricity connection being given to the petitioner.

It is obvious from a common sense perspective as well as evident from the report filed by the CESC Limited that since there is already an existing service connection at premises no. 9C, which is structurally the same as premises no. 9A and 9B, all of which share a common wall, it is not feasible for another service connection to be given to the petitioner.

Unless a second service connection is given to the same premises to install another separate meter for the private respondent/tenant, the connectivity has to be given from the existing meter board position.

Hence, there cannot be any further scope of the present petitioner/landlord now coming up and resiling from his previous position, which is evident from the order of the Court passed in WPA No. 5115 of 2023, and now argue that private respondent/tenant ought to be given service connection from any other premises by installing a different meter there. The limited scope of the inspection directed by the previous order was directed to ascertain the feasibility of giving a new electricity connection to the petitioner.

Since the CESC Limited has specifically reported that it is so feasible, but from the existing meter board position at the premises, the right of the tenant/private respondent to get a electricity connection at the premises where he resides cannot be curtailed by a post-facto harassive attempt by the landlord.

In fact, it is clear from the above discussions that the conduct of the present petitioner in filing the instant writ petition seeking to retract from their specific undertaking given in Court is patently mala fide and harassive.

Accordingly, WPO No. 747 of 2023 is dismissed on contest. The petitioner shall pay costs of Rs.20,000/- to the private respondent within a fortnight from date.

(SABYASACHI BHATTACHARYYA, J.)