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WPO/1290/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SRI KINGSHUK ROY
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 26th June, 2023.

Appearance:

Mr. Abhishek Banerjee, Adv.

Ms. Parna Roy Choudhury, Adv.

Ms. Shilpa Thapa, Adv.

...for the petitioner

Ms. Noelle Banerjee, Adv.

...for the State of West Bengal/ respondent nos.1 & 3

Mr. Abhijit Ray, Adv.

Ms. Nabanita Ray, Adv.

Ms. Santu Nandy, Adv.

...for the respondent no.4

The Court: Despite service, none appears for the CESC Limited. Affidavit of service filed today be kept on record.

The petitioner contends that due to resistance by the private respondent no.4, which is the landlord of the petitioner, the CESC Limited is not being able to give electricity connection to the petitioner.

Learned counsel appearing for the petitioner further contends that previously the petitioner was enjoying the electricity connection from the supply of the private respondent. However, due to the said connection being disrupted, the petitioner had applied for a new electricity connection.

At this juncture, learned counsel for the private respondent no.4 opposes such contention of the petitioner and submits that the allegation of disruption of the petitioner's existing electricity connection has not been made in the writ petition or its pleadings. It is further denied that any sort of disruption is being created by the landlord/respondent no.4. Learned counsel for the respondent no.4 further argues that the petitioner has not been residing in the suit premises and an eviction suit at the instance of the landlord is also pending against the petitioner. In such view of the matter, it is contended that the petitioner is not entitled to get an electricity connection in his own name.

Learned counsel appearing for the respondent no.4 also places reliance on a purported communication dated May 13, 2023 by the CESC Limited to the private respondent no.4's son, informing the son of the private respondent no.4 that the application made by the said son for another electricity connection at the premises was being refused. The ground cited for such refusal, it is submitted, was that it was extremely dangerous to have more than one source of supply for a particular unit as it may lead to fire and electrical hazards.

Learned counsel for the respondent no.4, thus, submits that the CESC Limited is required to be heard on their stand on the issue of giving a new connection as prayed for by the petitioner.

The objection of the private respondent no.4 to the effect that the petitioner is not in occupation of the suit premises cannot be accepted, simply because there is a pending eviction suit which has been filed by the respondent no.4. In view of the pendency of such suit till date, it does not lie in the mouth of the respondent no.4 to argue that the petitioner is not in settled occupation of the disputed property, which is the primary requirement for getting electricity under Section 43 of the Electricity Act, 2003.

That apart, the ground on which a new electricity connection was refused to the petitioner's son stands on an entirely different footing than that of the petitioner.

The first ground of refusal, as evident in Clause 3 of the communication dated May 13, 2023, was that the CESC Limited apprehended a splitting of the consumption of units. Such stand of the CESC Limited, however, is not germane for the petitioner, since there is admitted acrimony between the petitioner and the landlord/respondent no.4 which has resulted in the pendency of the suit for eviction instituted by the landlord against the petitioner. Hence, it cannot be said that the petitioner has applied for a new connection in collusion with the landlord for the purpose of splitting of load. For all practical purposes, the petitioner/tenant has to be taken as a different unit inasmuch as electricity consumption is concerned.

In so far as the ground of danger of fire and electrical hazard is concerned, the same was restricted, even as per communication of the CESC Limited, to a particular unit. However, for the present purpose, the tenanted portion where the petitioner is residing is a separate unit from that of the landlord. Hence, the

said objection of the CESC Limited is also not applicable, *ex facie*, to the present case.

In such view of the matter, there cannot be any impediment in the CESC Limited giving the electricity supply to the petitioner. In any event, it is seen from the materials on record that the primary objection of the CESC Limited is that they are not getting access to the existing meter board position for giving such connection or holding such inspection.

Accordingly, WPO/1290/2023 is disposed of by directing the CESC Limited to hold an inspection at the premises in question for the purpose of ascertaining the feasibility of giving electricity connection to the petitioner in his own name, in the light of the observations made above. Upon such inspection, which will be held within a week from the communication of this order to the CESC Limited upon prior notice to the petitioner and the private respondent no.4, the CESC Limited shall raise an estimate, if it is otherwise found feasible to give such electricity connection to the petitioner in that regard, within a week thereafter. Upon such estimate being raised, the petitioner shall comply with the requisite formalities. The CESC Limited shall, within a week after such compliance of formalities, give such connection to the petitioner.

In the event any resistance is offered to the CESC Limited personnel by the private respondent no.4 and/or his men and agents at the instance of holding such inspection or giving of such electricity connection to the petitioner, it will be open to the CESC personnel to approach the respondent no.3, the Officer-in-Charge of the Bow Bazar Police Station, who will give adequate police assistance on both such occasions at the cost of the petitioner.

If any padlock or other hindrance is put up to resist the CESC personnel from any quarter, it will be open to the police to remove such padlock for the limited purpose of giving access of the CESC personnel to have the inspection and to give electricity connection to the petitioner from the existing meter board position.

However, it is made clear that nothing in this order shall create any special equity or right in favour of the petitioner simply by virtue of getting an electricity connection at the premises and any observation made herein shall be without prejudice to the rights and contentions of the parties in the pending eviction suit and/or any other proceeding which may be initiated between the parties.

The parties shall act on the server copy of this order, without insisting upon prior production of certified copy, for the purpose of compliance.

The parties shall serve a notice intimating this order to the CESC Limited along with a server copy of this order at the earliest to ensure due compliance.

(SABYASACHI BHATTACHARYYA, J.)