

29th January,
2024
(AK)
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W.P.A 12778 of 2021
IA No: CAN 1 of 2022

Babu Ghosh and others
Vs.
Calcutta Electric Supply Corporation (CESC) Limited and
others

Mr. Buddhadev Das
...for the petitioners.

Mr. Debanjan Mukherjee
Mr. Aziz Amim
...for the CESC Limited.

Mr. Angshuman Chakraborty
...for the private respondent.

In Re: CAN 1 of 2022

1. CAN 1 of 2022 is a substitution application preferred in connection with the writ petition.
2. The substitution sought to be effected by the writ petitioner is of the heirs and legal representations of the deceased objector to electricity connection being shifted, who has died in the meantime.
3. The right to object is not a heritable right. However, it is submitted by learned counsel for the CESC Limited that the proposed substituted respondents are also the present co-sharers of the property whose consent is necessary for the purpose of shifting as sought by the petitioners.

4. Hence, the proposed substituted respondents are required to be impleaded as respondents, although not on the principle of Order XXII Rule 9 but under the principle incorporated in Order XXII Rule 10 of the Code of Civil Procedure, since they are proper parties to the writ petition in view of being co-sharers.
5. CAN 1 of 2022 is allowed, thereby impleading the proposed substituted respondents as parties to the present writ petition.
6. The learned Advocate-on-record for the petitioner shall carry out the necessary amendments to the cause title of the writ petition impleading the added respondents during the course of the day.

In Re: WPA No. 12778 of 2021

7. The writ petition is now taken up for hearing.
8. It has been filed for shifting of the electricity meter of the petitioners from its current location due to inconvenience.
9. It is submitted by learned counsel for the petitioners that the petitioners have already constructed a new meter room in a more convenient and common location in terms of the impression given by the CESC Limited and as such there is no impediment to shift the meter there.

10. Learned counsel for the CESC Limited files his affidavit-in-opposition and submits that the CESC Limited has already identified a location.
11. There is no impediment otherwise to shift the electricity connection of the petitioners to the said newly constructed meter room subject to the other meters standing in the existing meter room also being shifted there, which again is subject to no objection being given by the owners of the meters.
12. The predicament according to the CESC Limited is that the heirs of the objectors have not yet applied for transfer of the names in respect of the meter of their predecessor, who is since deceased, in their own name.
13. However, learned counsel for the newly impleaded respondents submits that the heirs of the objectors, that is, the added respondents do not have any objection to the shifting being done to the newly constructed meter board position, subject however, to the rider that the added respondents' rights as co-owners to the existing shop room are not hampered in any manner.
14. Since the added respondents have not yet had their names transferred with regard to the meters standing in the name of their deceased predecessor, they also do not have a right to object in any event.

15. Yet, since the added respondents have a right to get their predecessor's meter transferred in their own name, their opinion on the shifting is also vital.
16. Since it has been expressed by the added respondents that they have no objection to the shifting subject to the rider as indicated above, there is no further impediment in directing such shifting to be done.
17. Accordingly, WPA No. 12778 of 2021 is disposed of by directing the CESC Limited to shift the electricity meter/s of the petitioners as well as the other electricity meters located at the existing meter board position at the premises-in-question to the newly constructed meter room, subject to the petitioners complying with all formalities and subject to the added respondents applying for transferring the names in respect of the meter of their predecessor-in-interest, the deceased objector, in their own name within a week from date.
18. The added respondents shall so apply to have their names transferred with regard to the meter within a week from date and comply with all formalities in that regard at the earliest.
19. Subject to such compliance on the part of the petitioners and the private respondent, the CESC Limited shall have the existing meter shifted to the newly constructed meter room, preferably within

three weeks after such compliance by the petitioners and the private respondent.

20. It is made clear that on the application made by the private respondents for having their names recorded in respect of their deceased predecessor's meter, the necessary formalities and payments in that regard can be done by the petitioners on behalf of the private respondent through the private respondent.
21. It is made clear that in the event the private respondents do not apply for having their name transferred in respect of the meter of their predecessor within a week from date, it will be open to the CESC Limited to take necessary steps in compliance with law for disconnecting such connection, in which event, upon such disconnection being effected, there would not be further impediment CESC Limited shifting the meter of the petitioners to the newly constructed meter room irrespective of any objection otherwise from the added respondents.
22. It is made clear that the above directions and the shifting of the meters shall be entirely without prejudice to the rights and contentions of the petitioners and the added respondents with regard to the property-in-question, including the shop

room in which the private respondents claim to be co-sharers.

23. In the event any obstruction is faced by the CESC Limited personnel from any quarter while shifting the said meters in terms of the above direction, it will be open to them to approach the respondent no.3, the Officer-in-Charge of the Kasba Police Station, who shall grant such assistance at the cost of the petitioners by acting on a server copy of this order, if need be by removing any padlock or other hindrance if put up to resist them from complying with the above order.

24. 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.)