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21.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 14108 of 2024

Tapas Chanda
Vs.
The Station Manager and
Assistant Engineer, Dakshin
Barasat Customer Care Centre & Ors.

Mr. Lakshminath Bhattacharya
...for the petitioner

Ms. Susmita Chatterjee
...for the WBSEDCL

Mr. Dipayan Kundu
...for the private respondent

Ms. Jyotsna Roy Mukherjee
...for the State

1. Affidavit of service filed today be kept on record.
2. Learned counsel for the petitioner submits that the petitioner is a tenant in respect of the subject property, regarding which an eviction suit is pending at the behest of the private respondent.
3. It is submitted that since the petitioner's electricity supply was disconnected by the private respondent/landlord, the petitioner applied for a new electricity connection, which could not be given by the West Bengal State Electricity Distribution Company Limited.

4. Learned counsel appearing for the private respondent contends that the original lease agreement between the parties had expired and, thereafter, the petitioner is no longer a tenant in respect of the property. The private respondent has filed an eviction suit, which is pending against the petitioner.

5. Moreover, it is alleged that the petitioner is carrying on illegal activities on the subject property by taking money from third parties on the false promise that he would provide jobs to them. It is alleged that the petitioner was arrested on such count as well and electricity connection ought not to be given to the petitioner for carrying out such illegal activities on the property. It is further contended by the private respondent that the petitioner has also filed a suit, which is pending as well.

6. It is well-settled that within the contemplation of Section 43 of the Electricity Act, 2003, even an illegal occupant, subject to him/her being in settled occupation, is entitled to the benefit of electricity connection, since it is a part of the basic right of a person and also a corollary to the right to life.

7. The allegations made by the respondents in respect of which criminal cases are pending will be thrashed out in the appropriate criminal court. Even the civil court shall decide on the civil rights

between the petitioner and the private respondent. However, none of those factors can be a deterrent to the petitioner, during his occupancy of the premises, from being deprived of the facility of electricity connection.

8. Learned counsel appearing for the State submits that action has been taken by the police authorities on the complaints filed by the petitioner and the private respondent.

9. Be that as it may, in view of the above observations, W.P.A. No. 14108 of 2024 is allowed, thereby directing the WBSEDCL to give independent electricity connection in the name of the petitioner at the premises-in-question, subject to compliance of all formalities by the petitioner, within a fortnight from date or from the date of compliance of the petitioner, whichever is later.

10. If any resistance is offered by the private respondent and/or his men and agents, it will be open to the WBSEDCL personnel to approach the respondent no. 10, that is, the Officer-in-Charge, Joynager Police Station, who will grant adequate police assistance to the WBSEDCL by acting on a server copy of this order, at the cost of the petitioner, if necessary removing any padlock or other hindrance for facilitating such connection to the petitioner.

11. It is, however, made clear that the connection, as and when given to the petitioner, shall not operate to create a special right or equity in favour of the petitioner, which the petitioner does not have otherwise in law and the same shall be without prejudice to the rights and contentions of all concerned in the pending civil as well as criminal proceedings.

12. There will be no order as to costs.

13. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)