

22.05.2024
Item No.27
PG/KS
Ct. No.1

M.A.T. 1010 of 2024
With
I.A. No. CAN 1 of 2024

Sadhana Ghosh & Ors.
Versus
CESC Limited & Ors.

Mr. Saurav Chaudhuri

.....for the appellants

Dr. Madhusudan Saha Ray

.....for the respondent nos.2 & 3/CESC Ltd.

1. The order dated May 15, 2024 passed by the learned Single Judge in W.P.A. 24179 of 2023 is under challenge in this intra-Court appeal at the instance of the respondent nos.3 to 8 in the writ petition.
2. By the order impugned, the learned Single Judge directed adequate police assistance to be provided to the authorities of C.E.S.C. Limited for carrying out their statutory duties. It was further observed that if the writ petitioner/respondent no.4 herein has complied with all pre-requisite for installing new electricity connection, the C.E.S.C. authority shall install the new electric meter in the name of the petitioner within the time limits specified therein.
3. The learned advocate appearing for the appellants submits that the writ petitioner/respondent no.4 herein is not in occupation of the property in question. He submits that the C.E.S.C. authorities should be restrained from effecting supply of electricity to the writ petitioner in the premises.

4. The learned advocate representing the C.E.S.C. limited places reliance upon a Full Bench decision of this Court in the case of ***Abhimanyu Mazumdar Vs. Superintending Engineer & Anr.*** reported at ***AIR 2011 CAL 64*** in support of his contention that nature of occupation of the premises in question is not a relevant consideration for effecting supply of electricity.
5. He further submits that if a person is in occupation of the property in question or any part thereof, such person is entitled to supply of electricity and the licensing company is under a statutory obligation to effect supply of electricity in accordance with Section 43 of the Electricity Act, 2003.
6. It appears from the application under Section 144(2) of the Code of Criminal Procedure, being Misc. Case No.906 of 2023, that the appellant no.1 herein has admitted that the writ petitioner/respondent no.4 herein is in occupation of Premises No.105/5, Karaya Road under Police Station Karaya, Kolkata – 700017. Since, the writ petitioner is in settled possession, she is entitled to supply of electricity as observed by the Hon'ble Full Bench in ***Abhimanyu Mazumdar (supra)***.
7. The learned advocate for the C.E.S.C. authorities, on instructions, submits that supply of electricity to the writ petitioner is technically feasible to the premises in question. In view thereof, we do not find any infirmity in the order passed by the learned Single Judge.

8. The learned advocate appearing for the appellants places reliance upon a letter of the C.E.S.C. authority dated 14th June, 2021 in support of his contention that the C.E.S.C. limited has rejected the prayer of the owners for supply of electricity through a meter.
9. After going through the said document this Court finds that one Mr. Raja Ghosh prayed for a separate supply of electricity at the premises in question despite enjoying the benefit from an existing supply and it was observed by the C.E.S.C. Limited that supply of electricity from more than one source is not technically feasible as it may lead to fire and electrical hazards.
10. For all the reasons, as aforesaid, appeal along with the connected application (I.A. No. CAN 1 of 2024) stand dismissed.
11. It is, however, made clear that supply of electricity to the writ petitioner/respondent shall be without prejudice to the rights of the appellants herein in respect of the property in question.
12. No costs.
13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)