

Item No.32
19.08.2024
Court. No. 9
GB

W.P.A. 20026 of 2024

Uttam Dey Roy

Vs.

The Calcutta Electric Supply Corporation & Ors.

Mr. Kaustav Banerjee,
Ms. Ria Kundu

...for the Petitioner.

Dr. Madhusudan Saha Roy

...for the WBSEDCL.

Mr. Saurav Choudhury,
Mr. Tauhid Khan

...for the State.

Mr. N.K. Rakshit,
Ms. Laboni Rakshit,

...for the Respondent Nos.4 to 7.

1. Affidavit-of-service filed in Court today, is taken on record.
2. In the peculiar facts of this case, the question before the Court is whether the petitioner should be granted new connection.
3. The learned advocate for the landlord submits that the petitioner was a tenant, who left the premises and defaulted in payment of rent. Thereafter, an eviction suit was filed. In the said suit, the petitioner was adjudicated as a defaulter and was asked to pay a sum of Rs.73,840/-. The petitioner has not paid the said amount and as such, the defence of the petitioner is liable to be struck off in terms of Section 7(3) of the West Bengal Premises Tenancy Act.
4. It is submitted that the provisions of Section 7(1) has been complied with, but the landlord has already filed

an application for striking of the defence of the petitioner for non-compliance of the order passed under Section 7(2).

5. Even if the defence of the petitioner is struck off, the petitioner cannot be evicted until the suit is decreed.
6. Under such circumstances, as long as the petitioner is a tenant in respect of the said shop room, he is entitled to connection upon compliance of all formalities, subject to the result of the suit.
7. Under such circumstances, the writ petition is disposed of directing the CESC authorities to grant connection to the petitioner, which shall be subject to the final decision in the suit. The fact that an eviction suit has been filed by the landlord, the issue of possession is not germane. Moreover, the distribution company found the petitioner's presence in the premises. The petitioner shall not get any additional advantage upon grant of such connection. The issue of default, and non-payment of rent as also non-compliance of the order of the learned civil court, are matters of records. The connection shall create any equity and shall be given to the petitioner provided the earlier dues of the distribution company are paid by the petitioner. The application under Section 7(3) which has been filed by the landlord, shall be heard on its own merit and this order shall not influence the proceedings before the learned civil court. The police

shall render assistance to the CESC authorities in case of any objection or resistance, at the cost of the petitioner.

8. Accordingly, the writ petition is disposed of.
9. However, there will be no order as to costs.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)