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29.01.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 24022 of 2023

Samir Sonar
Vs.
CESC Limited & Ors.

Mr. Malay Bhattacharyya,
Mr. Subhrojyoti Ghosh
... for the petitioner

Mr. Somnath Bose,
Mr. Debanjan Mukherjee
...for the CESC Limited

Mr. Basudeb Gayen
...for the private respondent

1. Learned counsel appearing for the petitioner contends that the petitioner is a tenant in respect of the property, but when the petitioner applied for electricity, no connection was given by the CESC Limited apparently due to objection raised by the private respondent/landlord.

2. The CESC Limited also took a stand that another service connection is existing in the premises for which the connection could not be given.

3. Learned counsel submits on instruction that the petitioner wants a metered connection at the premises in his own name.

4. Learned counsel for the CESC Limited points out to the application for electricity connection of the petitioner, annexed to the writ petition, and submits that in the column “Application made for”, the petitioner has mentioned “new connection (where supply does not exists)”. The connotation of the said application is obviously seeking a new service connection and the statement that no supply exists is incorrect, since the landlord is enjoying a supply at the premises.

5. Since the CESC Limited takes a stand during hearing that it has no objection otherwise to give electricity connection to the petitioner by way of loop meter from the existing service connection if proper application is made, the issue raised by the CESC Limited can be resolved in such manner.

6. Insofar as the private respondent is concerned, learned counsel representing the said respondent argues that the petitioner is seeking to establish tenancy rights, whereas he is not a tenant at all in respect of the premises.

7. The petitioner, it is argued, does not have any legal right to continue occupying the premises. As such, no electricity connection ought to be given to the petitioner to establish such right.

8. It is well-settled that an occupant is entitled to electricity connection under Section 43 of the

Electricity Act, 2003, irrespective of the lawfulness or legal status of the occupant. Inasmuch as the apprehension of the private respondent is concerned, no new equity is created merely by enjoyment of electricity.

9. As such, since it is evident that there is acrimony between the petitioner and the private respondent, which is obvious from the objection raised by the private respondent, the petitioner is entitled to an independent electricity metered connection.

10. Hence, W.P.A. No. 24022 of 2023 is disposed of by granting liberty to the petitioner to apply afresh for a fresh metered connection at the premises-in-question.

11. If so applied and subject to compliance of all due formalities by the petitioner, the CESC Limited shall give a new metered connection to the petitioner from the existing meter board position at the premises subject to compliance of all formalities by the petitioner, within a fortnight from the date of such application.

12. In the event any obstruction is raised by the private respondent and/or his men or agents, either at the time of inspection or at the time of giving such connection, it will be open to the CESC personnel to approach the respondent no. 3, that

is, the Officer-in-Charge, Serampore Police Station, who will give adequate assistance to the CESC personnel in both the occasions, at the cost of the petitioner, if need be by removing any padlock or other hindrance for such limited purpose.

13. It is made clear that nothing in this order or the electricity connection, as and when given to the petitioner, shall create any special right or equity in favour of the petitioner with regard to the property, to which the petitioner is not otherwise entitled in law.

14. No right, title or interest of the private respondent shall otherwise be prejudiced merely by such electricity connection being given to the petitioner.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)