

16th January,
2024
(AK)
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W.P.A 28660 of 2023

Sri Mithilesh Kumar Mahto
Vs.
The State of West Bengal and others

Mr. Aditya Mondal
Mr. Washim Dafader
...for the petitioner.

Mrs. Ashmita Chakraborty
...for the State.

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

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
...for the respondent no.5.

1. The writ petitioner contends that the writ petitioner is the tenant of a property under the private respondent.
2. Previously, the electricity connection of the petitioner was severed. Upon the petitioner approaching the CESC Limited, the same was restored.
3. Subsequently when again the electricity connection was disconnected, the petitioner has sought for a new electricity connection which has not been given by the CESC Limited on the premise that an objection has been raised by the private respondent.

4. Learned counsel appearing for the CESC Limited submits that previously a similar writ petition was filed by the petitioner's father but the same was withdrawn. A copy of the said order is handed over in court.
5. However, otherwise the CESC Limited does not have any objection to give a loop connection if the petitioner complies with all formalities.
6. It is pointed out that the application filed for new electricity connection was by the father of the petitioner who has since met his demise. As such, unless the petitioner makes a fresh application, there cannot arise any question of giving such connection.
7. Learned counsel for the private respondent submits that although the petitioner has submitted that the petitioner has filed a suit for declaration of his tenancy rights, no details of the same have been furnished in the writ petition.
8. Further, the private respondent is not aware of any such suit and no notice thereof has been served on the private respondent.
9. It is also argued that the petitioner has never been in possession of the property. Even the death certificate of the petitioner's deceased father shows that the said deceased had died out of West Bengal,

which has also been shown as his permanent address.

10. Thus, in the absence of any right whatsoever regarding possession or otherwise in respect of the disputed property, the petitioner is not entitled to any electricity connection in the petitioner's name.
11. Learned counsel for the petitioner submits that given an opportunity, the petitioner is agreeable to disclose the details of the declaratory suit.
12. That apart, learned counsel for the petitioner places stress on the copies of the rent control challans deposited by the petitioner and annexed to the writ petition.
13. A perusal of the present writ petition and its annexures shows that the only documents sought to be cited by the petitioner by way of proof of his *prima facie* possession are rent control challans for rent deposited before the Controller.
14. However, anybody can unilaterally deposit rent with the Rent Controller on the averment that he or she is a tenant. Such deposit by itself does not substantiate even *prima facie* the occupation of the person with regard to the property-in-question.
15. The objection raised by the CESC Limited, however, regarding withdrawal of a previous writ petition by the petitioner's father is not tenable, since the order passed therein shows that the withdrawal was due

to technical defects and leave was granted to the petitioner to file a fresh writ petition on the self-same cause of action.

16. However, in any event, I do not find anything on record to indicate even *prima facie* that the petitioner is in settled possession of the property, which is a *sine qua non* under Section 43 of the Electricity Act, 2003 for a person to be entitled to get an electricity connection at a property.
17. In the absence of the same, the writ court cannot issue any prerogative writ directing the CESC Limited to give an electricity connection to the petitioner.
18. However, it will be open to the petitioner to approach the CESC Limited in future with relevant documents to indicate and substantiate *prima facie* that the petitioner is in settled occupation of the property.
19. If so approached, it will be open to the CESC Limited, upon satisfying itself as regards such *prima facie* occupation of the petitioner, to consider giving electricity connection to the petitioner in the petitioner's name.
20. It is clarified that this court has not gone into the merits of the allegations and counter-allegations between the parties and it will be open to the competent civil court or any other forum, if so

approached by the parties, to decide all issues on merits between the parties in accordance with law independent of the observations made above.

21. However, no relief can be given to the petitioner at this stage.
22. Accordingly, WPA 28660 of 2023 is dismissed without any order as to costs in the light of the above observations.
23. Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)