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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 29082 of 2023

Pami Shaw
Vs.
The State of West Bengal & Ors.

Mr. Mahfuzus Salam Mollah
...for the petitioner

Ms. Sreemoyee Mitra
...for the CESC Limited

Mr. Soumya Banerjee,
Ms. Sucheta Banerjee
...for the respondent nos. 4 to 6

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner argues that the petitioner purchased a property and obtained an injunction from a civil court against the private respondents restraining the defendants/private respondents from creating objection, obstruction or interference with the peaceful possession of the plaintiff/petitioner at the suit property. Despite the same, when the Calcutta Electric Supply Corporation Limited (CESC Limited) was approached for giving the petitioner an independent electricity connection, the same has not yet been given.

3. Learned counsel appearing for the private respondents disputes the contentions of the petitioner and seeks to point out several irregularities in the purchase of the petitioner. It is submitted that completion certificate of the building has not been handed over to the private respondents, who were the owners. It is also submitted that the property still stands in the name of the mother of the private respondents, who is an owner of the property.

4. In view of such irregularities, it is argued that the petitioner is not entitled to electricity connection in the property.

5. Learned counsel appearing for the CESC Limited contends that the CESC Limited could not hold an inspection for the purpose of ascertaining the feasibility of giving such connection. However, the CESC Limited is agreeable on principle to give a loop-metered connection to the petitioner from the existing meter board position, subject to the petitioner complying with all due formalities and renovating the meter room.

6. Upon a consideration of the submissions of the parties, it is evident that an *ex parte* order was passed by the Civil Judge (Junior Division), Second Court at Howrah on October 17, 2023 in Title Suit No. 1554 of 2023 instituted by the petitioner to the

effect that the defendants therein, including the private respondents herein, shall be restrained from creating objection, obstruction or interference with the peaceful possession of the petitioner at the property-in-dispute. Thus, *prima facie* possession of the petitioner is found from the documents-on-record. That apart, the petitioner has also produced his title deed, which also creates a *prima facie* presumption of settled occupation of the petitioner.

7. Insofar as the irregularities alleged by the private respondents, the same are the subject matter of dispute before a competent civil court in the suit pending between the parties and shall be canvassed duly before the competent civil court. The same, however, is not a subject-matter of the present writ petition, since the petitioner has a right as an occupier to get electricity connection under Section 43 of the Electricity Act, 2003.

8. Accordingly, W.P.A. No. 29082 of 2023 is disposed of by directing the CESC Limited to hold an inspection at the disputed property upon prior notice to the petitioner and the private respondents to ascertain the feasibility of giving electricity connection to the petitioner.

9. Upon such inspection being held, the CESC Limited shall intimate the petitioner as to the work

which is required to be done by the petitioner for getting electricity connection, if any, and otherwise shall raise a quotation for giving electricity connection to the petitioner.

10. Upon the petitioner complying with all formalities and paying the due amounts as per such quotation, the CESC Limited shall give electricity connection to the petitioner within a fortnight from the date of such formalities being complied with by the petitioner.

11. At both instances, when the CESC Limited goes to hold an inspection to ascertain feasibility and later on to give electricity connection to the petitioner, if any obstruction is raised by the private respondents and/or their men and agents, it will be open to the CESC personnel to approach the local police station for adequate police assistance, which will be given by the Officer-in-Charge/Inspector-in-Charge, as the case may be, of the local police station by acting on the server copy of this order, at the cost of the petitioner, on both such occasions. If need be, it will be open to the police personnel to open any padlock or remove other hindrances for such limited purpose.

12. It is made clear that the electricity connection, if given to the petitioner, and/or any observations made herein shall not prejudice the rights and

contentions of the petitioner as well as the private respondents before any civil forum/court.

13. It will be open to the civil court or other forum, where private disputes between the parties are pending, to decide such issues independently in accordance with law without being influenced in any manner by the electricity connection being given to the petitioner or by any of the observations made herein.

14. There will be no order as to costs.

15. 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.)