

02.05.2025
SI No.4
Ct. No.15
S.A.

WPA 2448 of 2025

Subhash Ghosh
-vs-
CESC Limited & Ors.

Mr. Indrajit Biswas
Mr. Rakesh Kumar Pandey
...for the petitioner
Mr. Suman Ghosh
...for CESC
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
...for the State
Mr. Jogendra Pandey
Mr. Debnath Ganguly
Mr. Supriyo Dutta
...for respondent no.6

The petitioner seeks an electricity connection for the fourth floor of the premises located at 65, Sisir Bhaduri Sarani, Amherst Street, Kolkata-700006.

The petitioner contends that he entered into a development agreement with respondent no. 6 and another party, pursuant to which a building was constructed. He is presently in possession, inter alia, of the fourth floor of the said premises.

Learned counsel appearing on behalf of CESC submits that, pursuant to an application filed by the petitioner, officials of CESC visited the premises to provide the electricity connection to the fourth floor. However, due to resistance from respondent no. 6 and some other occupants of the building, the connection could not be effected. CESC acknowledges that the petitioner has duly deposited the amount quoted for

the electricity connection. It is further admitted by CESC that other residents of the building are presently availing electricity services from CESC.

The prayer made by the petitioner is strongly opposed by respondent no. 6, who contends that the fourth floor has been constructed in violation of the sanctioned building plan. He submits that the sanctioned plan permits construction of only a four-storey building, and that the petitioner has unilaterally constructed an additional floor, which is entirely unauthorised. Respondent no. 6 further submits that no electricity connection should be provided for a construction that is illegal and unauthorised. It is also submitted that no completion certificate has been issued by the municipal corporation for the building. Reliance is placed on the judgments in Civil Appeal No. 14604/2024 (Arising out of SLP(C) No. 36440/2014 – Rajendra Kumar Barjatya & Anr. vs. UP Avas Evam Vikas Parishad & Ors.) and Civil Appeal No. 14605/2024 (Arising out of SLP(C) No. 1184/2015 – Rajeev Gupta & Ors. vs. UP Avas Evam Vikas Parishad & Ors.), to support the contention that no electricity connection may be granted in respect of unauthorised constructions.

Having considered the submissions, I am not persuaded as to the bona fides of respondent no. 6 in opposing the petitioner's prayer for an electricity

connection. It is undisputed that respondent no. 6 was allotted his share in the building under the original development agreement. While he alleges that the petitioner has constructed two additional floors without authorisation, it is for the competent authorities to determine the legality of such construction under applicable laws and regulations.

It is not the petitioner's case that respondent no. 6 was deprived of his share as per the development agreement. Therefore, in my view, respondent no. 6 cannot claim any proprietary or possessory right over the fourth floor of the building and, as such, lacks standing to object to the grant of an electricity connection to the petitioner.

It is, however, clarified that the grant of an electricity connection does not confer any right, title, or interest upon the petitioner with respect to the property, nor does it alter the legal status or character of the premises. If respondent no. 6 seeks to dispute the petitioner's possession or any claim of right, title, or interest in the fourth floor, the appropriate remedy lies before the competent Civil Court or other appropriate forum.

CESC has submitted that the petitioner is in possession of the fourth floor. In such circumstances, CESC is not expected to adjudicate issues of ownership or title, but should be guided by the

principle of settled possession. Where a person is in settled possession of a premises, CESC is under an obligation to provide an electricity connection.

In light of the foregoing, the writ petition is allowed.

CESC is directed to effect the electricity connection to the fourth floor of the premises in favour of the petitioner within a period of three weeks from the date of this order.

The Officer-in-Charge of Amherst Street Police Station is directed to render necessary assistance to CESC officials in this regard, at the cost of the petitioner. The police are also granted liberty to break open the padlock of the meter room, if required.

Accordingly, **WPA 2448 of 2025** stands allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)

Later

After the judgement was dictated, learned advocate appearing for respondent no.6 prays for stay of the operation of the order.

The prayer for stay is considered and rejected.

(Kausik Chanda, J.)

