

22.05.2025
Court No.11
Item No.13
Avijit Mitra

**MAT 622 of 2025
with
IA No.CAN 1 of 2025**

**Smt. Jaya Dutta
- Versus -
Smt. Srabani Sardar & Ors.**

Mr. Allen Felix,
Mr. Pradip Kumar Sardar
.....for the appellant
Mr. Uday Kumar Bhattacharya,
Ms. Banani Bhattacharya
.....for the C.E.S.C.
Mr. Bidyut Kumar Halder,
Mr. Indranil Halder
.....for the respondent no.1

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 21st April, 2025 passed by the learned single Judge in a writ petition being WPA 29881 of 2024.

Mr. Felix, the learned advocate appearing for the appellant submits that the impugned order was passed by the learned single Judge being oblivious of the fact that the writ petitioner/respondent no.1 herein is forcibly occupying a room measuring about 120 sq.ft. at the ground floor of the building at premises no. 6 Ballygunge Station Road, P.S. Gariahat, Kolkata 700019 (hereinafter referred to as the said premises).

He argues that the said respondent no.1 was a defaulter and accordingly the electricity connection which she was enjoying through a meter standing in the name of the appellant, being the landlady of the said premises, was rightly disconnected due to non-payment of the electricity charges. In

view of such disconnection, she was disentitled to avail any fresh connection. Such argument, as advanced by the appellant was glossed over by the learned single Judge.

He further submits that the learned single Judge ought to have appreciated that the respondent no.1 cannot claim commercial connection at the said premises inasmuch as grant of such connection would enable her to utilize the room for a purpose different from the purpose for which it was initially let out and moreso when such agreement has expired.

Mr. Halder, learned advocate appearing for the respondent no.1 submits that the CESC authorities have a statutory duty to supply electricity to an individual, who is in occupation of the premises and such supply cannot be obstructed by any individual on a purported ground that he/she disputes the right, title and interest of the person in whose favour the connection is to be given.

He contends that the respondent no.1 had paid all the outstanding dues and had also complied with the necessary formalities and that as such she cannot be denied electricity connection.

Mr. Bhattacharya, learned advocate appearing for the CESC authorities submits that the respondent no.1 has not yet completed all the formalities towards grant of commercial connection.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A person in settled possession is entitled to get electricity connection under the provisions of the Electricity Act. However, the enjoyment of such electricity will not confer any right or

equity in favour of the person in occupation to defeat the title of the lawful owner [See the judgment delivered in the case of *Abhimunya Mukherjee –vs- Superintending Engineer*, reported in 2011(2) CHN 768].

By the order impugned in the appeal, the learned single Judge has directed that a fresh commercial electricity connection can be effected in favour of the respondent no.1 subject to her payment of outstanding dues and incidental charges. We do not find any infirmity in the said order and that as such no interference is called for.

Needless to observe such grant of connection to the respondent no.1 shall not create any right in favour of the respondent no.1 in the said premises nor would prejudice the appellant's right before any other forum. .

It is further made clear that electricity connection to the respondent no.1, as directed by the learned single Judge, would be effected by the authorities subject to compliance of all necessary formalities.

With the above observations and directions, the appeal and the connected application are disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)