

**N THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE**

WPO/576/2025

**ASHOKE BHOWMICK
Vs
CESC LIMITED AND ORS**

**PRESENT :
THE HON'BLE JUSTICE ANIRUDDHA ROY**

For Petitioner

Mr. Krishna Das Poddar, Adv.
Ms. Mondira Barman, Adv.

For CESC

Mr. Ram Chandra Gucchait, Adv.

For Respondent Nos. 6 and 7

Mr. Sabir Ahmed, Adv.
Mr. Vishwarup Acharyya, Adv.
Mr. Dhiman Banerjee, Adv.

Heard on : 19.08.2025

Judgment on : 19.08.2025

ANIRUDDHA ROY, J. :

Upon urgency being pleaded on mentioning and since the regular determination has been assigned to this Court, this writ petition has been taken up for consideration by publishing in the daily supplementary list.

Facts:

1. The solitary grievance of the petitioner is that despite due application being submitted for obtaining electricity connection at the subject premises, the CESC authority has failed to provide electricity connection.

Submissions :

2. Mr. Sabir Ahmed, learned counsel appearing for the private respondent Nos. 6 and 7 submits that they are the brothers of the writ petitioner. Owing to a property dispute involving the self-same premises where the petitioner claims one floor being the third floor of the premises, the brothers are at logger head as co-sharers of the self-same immovable property.

3. Mr. Ahmed has placed an order dated May 15, 2025 passed by a co-ordinate Bench in WPA/9992/2025, the same is taken on record. The order shows that the three brothers being logger head with each other, this writ petitioner has filed the writ petition alleging police in action and claiming protection against allegedly threat exercised by the private respondents herein on the petitioner. The co-ordinate Bench passed direction upon the jurisdictional police authority to keep strict vigil at the local along with other consequential directions.

4. Mr. Ahmed submits that after the said order was passed, the petitioner served a notice dated May 23, 2025 through its learned advocate, a copy is taken on record, wherefrom it appears that the petitioner neither was nor possession of the premises. The petitioner offered a particular amount to pay to the private respondents and requested them upon receiving such sum to handover possession of the third floor to the petitioner. The said sum was offered as the alleged

construction cost. These facts according to Mr. Ahmed shows that the petitioner is still not in possession of the premises.

5. This writ petition has been filed in gross suppression of facts and suppressing said order of the co-ordinate bench dated May 15, 2025. Referring to paragraph 5 of the writ petition he submits mere photographs could not suffice to show that the petitioner is in possession.

6. He further submits that on the ground of suppression alone, this writ petition should be dismissed. Unless the amount tendered by the petitioner is paid, he cannot be put into possession.

7. On query being raised by this Court, Mr. Ahmed submits that the private respondents as of now, has not initiated either any civil proceeding or any criminal proceeding against the writ petitioner.

8. Mr. Guchhait, learned Counsel for CESC submits that on three occasions CESC officials have visited the premises for providing electricity connection to the petitioner at the existing meter board(loop meter) after due inspection and on each occasion CESC officials were vehemently resisted by the private respondent nos. 5 & 6. Accordingly, CESC could not carry out its statutory obligation.

Decision :

9. After considering the rival contentions of the parties and on perusal of the materials on record, it appears to this Court that, the private respondents have not denied the ownership of the petitioner, as a co-owner of the premises. Even if, a co-owner is not in possession of a joint

property, unless partitioned, such a co-owner has right, title and interest on every inch of the undivided property.

10. The law is equally well settled that subject to compliance of all statutory requirements and subject to payment of all statutory levy and charges required to be paid in accordance with law, anybody who intends to obtain electricity supply, as of right is entitled to receive such electricity supply. Even a trespasser is also entitled to receive electricity supply upon compliance of the statutory requirements.

11. The disputes raised by Mr. Ahmed, learned Counsel appearing for the private respondents are purely civil in nature, which cannot prevail upon the statutory right of a co-owner to obtain electricity supply. The private respondents have not filed any civil suit against the writ petitioner with regard to the said alleged disputes. The disputes are purely amongst the co-owners with regard to their alleged right of occupation at the premises, which has got nothing to do with the statutory right of a co-owner, to obtain electricity supply in accordance with law.

12. The order of the co-ordinate Bench dated May 15, 2025 was passed wholly on a different perspective and even if the same is not disclosed in the instant writ petition, the same shall not amount to any material suppression. The law is also well settled in this regard that a suppression has to be a material suppression, which would have a bearing on the adjudication of the proceeding. The civil dispute even if exists amongst the

co-owners, the same would have no bearing or relevance in obtaining electricity connection by a co-owner, which is his/her statutory right.

13. In view of the forgoing reasons and discussions, the objections raised on behalf of the private respondent nos. 5 & 6 stand **overruled** and **rejected**, in so far as right to obtain electricity connection is concerned as claimed by the petitioner through this writ petition.

14. Accordingly, the respondent no.3 upon causing due inspection of the premises and on verification of all the relevant documents and records required to be produced by the petitioner in accordance with law and subject to compliance of all the statutory requirements including making of necessary payments of levies and charges payable by the petitioner under the law for obtaining electricity supply at the premises and upon being duly satisfied with all the statutory compliance, shall provide the necessary electricity supply by completing all the formalities at the subject premises in the name of the petitioner by installing electricity meter at the existing and earmarked common meter board positively within a period of **72 working hours** after compliance of all the formalities by the petitioner.

15. In the event of any default being detected on the part of the petitioner in complying the statutory requirements, the CESC authority shall be free to take steps in accordance with law by using its own discretion.

16. It is made clear that this order shall not create any right or equity with regard to the right of occupation or possession of the petitioner at the

premises and this order shall be restricted only for the purpose of obtaining electricity connection at the premises in the name of the petitioner and not beyond that.

17. It is made clear that this Court has not expressed any opinion on the property dispute, if any, amongst the co-sharers of the property.

18. It is also made clear that this order shall have no bearing in the event any civil or criminal proceeding is initiated by either of the parties against each other.

19. In the event, any police assistance is required by CESC Limited, it shall request the respondent no.4 to provide for the same and the respondent no.4 shall provide all possible assistance to CESC Limited. For such purpose, whatever cost and expenses, the same shall have to be incurred by the petitioner and the police authorities shall provide the necessary money receipts for the same.

20. Since, affidavits are not called for the allegations made in this writ petition are deemed not to have been admitted by the respondent.

21. With the above observations and directions, this writ petition being **WPO/576/2025** stands disposed of without any order as to costs.

(Aniruddha Roy, J.)