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ORDER SHEET
WPO No.1589 of 2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MANMOHAN HOSIERY
VS
C.E.S.C. LTD. & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 31st January, 2025.

Appearance:

Mr. Partha Chakraborty, Adv.
Ms. Debanjali Panja, Adv.
...for Petitioner.

Mr. Suman Dutta, Sr. Adv.
Mr. Rajarshi Dutta, Adv.
...for the respondent no.4.

Mr. Brotindra Mullick, Adv.
Ms. Supriti Dutta Mukherjee, Adv.
...for CESC Ltd.

Ms. Joyee Maiti, Adv.
...for the State.

1. The petitioner claims to be in possession of certain portion of the structure at 12, B. K. Paul Avenue, Kolkata-700005. Prayer has been made to supply electricity at the said portion.
2. In compliance of the direction passed by the Court, CESC personnel conducted a spot inspection. During inspection, the authority found a three storied building wherein on the ground floor the petitioner showed a vacant dilapidated room of approximately 400 sq. ft. with no door at its entrance. The petitioner claimed that the said portion would be used

as hosiery store for which the application was made for obtaining commercial loop meter.

3. During inspection, the petitioner failed to produce the trade license, rental agreement or any other relevant document to establish his claim to be in bona fide occupation of the said portion. The identified portion was without any electrical fittings like wirings, switchboard, light, fan etc.
4. Learned advocate for the petitioner submits that the petitioner is a sub-tenant of the said portion. An eviction suit between the landlord and tenant and also against the proprietor of the petitioner is pending consideration before the learned civil court.
5. In support of the submission that the petitioner is in possession of the portion of the property, reliance has been placed on the communication dated 19th October, 2022 written by the learned advocate of the private respondent to the original lessees that they had sub-let the subject premises in favour of the proprietor of the petitioner and the proprietor of the petitioner has broken the wall of the leasehold property and has gained unauthorized and illegal access to one room and is also trying to make unauthorized construction on the leasehold property.
6. The proprietor of the petitioner has, by a communication dated 1st November, 2022, addressed to the learned advocate for the private respondent informed that he does not reside at the subject premises.

7. Prayer has been made to direct the CESC Ltd. to provide electricity connection in favour of the petitioner at the said portion of the subject premises as, according to the letter of the learned advocate for the private respondent, the proprietor of the petitioner has gained access to the subject property.
8. Learned Counsel representing the private respondent specifically mentions that the proprietor of the petitioner is not in possession of the subject premises but is trying to take forceful possession of the same. An eviction suit is pending between the parties.
9. The report of the CESC Ltd. mentions that it is feasible that electric connection can be provided.
10. The Court in the order dated 25th September, 2023 clearly recorded that it is well settled that a person in settled possession of a property is entitled to enjoy electricity under Section 43 of the Electricity Act, 2003.
11. From the submissions made on behalf of the parties, this Court is not convinced that the petitioner is in possession of the subject property. The fact of possession of the property is seriously disputed by the private respondent. The factual issue cannot be adjudicated by the writ Court. On such disputed facts it will not be proper for the writ court to direct grant of electricity connection in favour of the petitioner.
12. The parties have already approached the civil forum for relief. It will be open for the parties to make appropriate prayer before the civil Court

for relief. Prayer of the petitioner for grant of electricity connection in the instant writ petition cannot be allowed.

13. The writ petition stands dismissed.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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