

(1989) 01 CAL CK 0013

Calcutta High Court

Case No: None

Soumendra Nath Sen

APPELLANT

Vs

Calcutta Electric Supply
Corporation Ltd. and Others

RESPONDENT

Date of Decision: Jan. 27, 1989

Acts Referred:

- Electricity Act, 1910 - Section 21(2)

Citation: (1989) 1 CALLT 380

Hon'ble Judges: Susanta Chatterji, J

Bench: Single Bench

Advocate: Utpal Bhattacharjee, for the Appellant; Ajoy Nath Ray and Suchit Kumar Banerjee, for the Respondent

Judgement

Susanta Chatterji, J.

The present writ petition has been filed for issuance of a Writ of Mandamus commanding the respondents to install the A.C. supply line immediately in the portion of the premises No. 30-A, Kalighat Road, Calcutta which has been reconstructed after the demolition of the Old Building therein. It is stated that the petitioner obtained the plan sanctioned by the Calcutta Municipal Corporation for the purpose of construction of a building at premises No. 30-A, Kalighat Road purchased by the petitioner and on demolition of the dilapidated structure therein has raised construction of double-storeyed building and the said construction is complete. It is further stated that a litigation is going on between the petitioner and his tenant for a portion of the building not covered by the newly constructed structure. According to the petitioner, there are two D.C. Meters at the premises No. 30-A. Kalighat Road, Calcutta standing in the name of one Kshudiram Samanta being No. 029879 and the other meter being No. 0067942 is standing in the name of D. R. Chakraborty. Those two meters are in existing laying before the purchase of the petitioner and these meters are being used by the said two tenants. Upon

construction of the building in the portion of the premises after demolition of the old structure the petitioner applied for A.C. Service line on 19th of August, 1987 and submitted a requisite form to the Calcutta Electric Supply Corporation Limited. On receipt of the application, the Calcutta Electric Supply Corporation Limited made an inspection of the premises of the petitioner on 20.10.1987. Since there is no response within the reasonable time the petitioner made an enquiry and he has been told that for the purpose of getting a new A.C. connection in the building the petitioner is required to surrender old D.C. line and meters otherwise the petitioner cannot get A.C connection in newly raised portion of the premises. As it is impossible to pursue the tenants to surrender their meters, the petitioner asked the District Engineer to consider his case of new A.C. supply connection in the premises in question and the petitioner's request in this behalf was refused. The District Engineer, Calcutta South District of Calcutta Electric Supply Corporation Limited informed that for the purpose of getting new A.C. connection, the building constructed by the petitioner is required to be separately assessed as prayed. Being aggrieved by and dissatisfied with the acts and actions of the respondents so far with, regard to the withholding the new A.C. connection to the premises of the petitioner, the petitioner has invoked the writ jurisdiction of this Hon'ble Court seeking reliefs as indicated above.

2. Mr. Bhattacharjee has strongly argued that regard being had to the materials on record and facts or the case that the petitioner's premises is a newly built construction and the same is separated from the old existing dilapidated building where the D.C. Meters are provided to the tenants, there is no bar to provide new A.C. line to the newly constructed portion of the premises. The question of re-numbering and upon assessment in the records of Corporation is not relevant for the purpose of supply of electricity to the petitioner's portion of the premises.

3. Mr. Ajoy Nath Ray, the Learned Counsel for C.E.S.C. Authorities has drawn the attention of the Court to the condition of supply by the Calcutta Electric Supply Corporation Limited by receiving the sanction of the Government of West Bengal. He has drawn the attention of the Court to paragraph 3 of the Conditions of Supply as made in 1961 that upon receipt of the application, notice will be sent to the consumer or to the wiring contractor acting on the consumer's behalf for his representative to meet the licensee to agree upon the position of the supply of service, cut outs and meters. The licensee will decide whether a projects service should be given to each consumer on any premises or whether a supply to all consumers in any premises will be given through separate meters from a common service installed on the premises. The position shall be such that the licensee's employees may have ready and easy access to do. The licensee will in no case fix his meters and cut outs, nor allow the same to remain in any position which entails entry of his employees into Purdah or religious quarters. Should the cut outs and meter board be fixed in a locked room or enclosure, the necessary keys must be kept available on the premises. There are other conditions for the safety of the

supply of electricity. The main force of argument of Mr. Ray is that in the same premises there cannot be simultaneous supply of electricity through D.C. line and A.C. line as there is a chance of risk and accident. For safety measure the C.E.S.C. insists that unless a premises is separately assessed and renumbered there cannot be the supply of A.C. and D.C. lines in one premises.

4. Having perused the materials on record and going through the Conditions of Supply as placed before this Hon"ble Court on behalf of the respondents, this Court does not find that there is any stipulation that unless the premises is separated by way of mutation in the Corporation and/or Municipal record there cannot be a supply of A.C. line and D.C. line. It appears further even after partition of a joint property in respect of one premises the sub-holdings are created upon re-assessment of the partition portions of the same premises and there are instances where one premises has been sub-divided and different portions of the premises with bearing different holding numbers are obtaining D.C. Supply in one portion and the A.C. supply in another portion and no question of risk has been considered. By insisting the separate holding numbers upon assessment the question of risk cannot be ruled out. At the same time when within one premises there are two different portions and there is no chance of risk. The prayer for supply of D.C. line and A.C. line in two different portions without these being any risk cannot be refused. True it is that certainly the C.E.S.C. Authorities will examine the issue of risk and safety hazard before supply of any line either A.C. or D.C. as prayed by the consumer but they cannot certainly withhold the supply of A.C. line by insisting mechanically that unless one premises is mutated and separately assessed upon re-numbering there cannot be supply of A.C. line and D.C. line to the selfsame premises in respect of different portions when there is no risk and safety hazard.

5. Considering this aspect of the matter with all anxieties, this Court does not find any merit in the stand taken by the C.E.S.C. Authorities that unless the premises is separately prayed and/or separately assessed there cannot be supply of D.C. line and A.C. line, C.E.S.C. Authorities will obviously examine each and every case upon receipt of the application and if there is no case of risk and technical difficulty the supply of respective electric lines can be effected accordingly. The writ petition is thus disposed of by directing the C.E.S.C. Authorities not to insist the separate number on assessment of the newly constructed portion of the premises made by the petitioner as condition for supply of A.C. line as prayed made by him in the instant case. The C.E.S.C. Authorities will supply the A.C. line to the petitioner within two months from date in respect of Ms newly raised exclusive portion of the construction at No. 30-A, Kalighat Road provided, there is no case of risk and other technical difficulties. Notwithstanding the fact that the premises No. 30-A, has not been sub-divided in the record of Calcutta Municipal Corporation for the purpose of assessment. There will be no Order as to costs.