Soumendra Nath Sen Vs Calcutta Electric Supply Corporation Ltd. and Others

None

Court: Calcutta High Court

Date of Decision: Jan. 27, 1989

Acts Referred:
Electricity Act, 1910 â€” 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 licencee 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 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.