

Sukriti Nirman Pvt. Ltd. and anr. Vs. C.E.S.C. Ltd. and ors.

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Court : Kolkata

Decided On : Sep-12-2013

Judge : Aniruddha Bose

Appellant : Sukriti Nirman Pvt. Ltd. and anr.

Respondent : C.E.S.C. Ltd. and ors.

Judgement :

ORDER

SHEET WP No.778 of 2013 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE IN THE MATTER OF: SUKRITI NIRMAN PVT.LTD.& ANR.

Versus C.E.S.C.LTD.& ORS.BEFORE: The Hon'ble JUSTICE ANIRUDDHA BOSE
Date :

12. h September, 2013.

Appearance: Mr.Ranjit Kr.Ghosal, Advocate, Mr.Anil Kr.

Das, Advocate with Mr.Mrinal Das, Advocate..for the petitioneRs.Mr.Rajiv Lall, Advocate..for the C.E.S.C.LTD.Mrs.Aparna Ghosh, Advocate..for the State.

The Court:-The writ petition is being taken up for hearing without filing of any affidavit as the issues involved in this proceeding relate to points of law only.

The petitioners are seeking supply of electricity in respect of a plot of land claimed to be owned by them at 232A, Basanta Lal Saha Road, Kolkata-700053.

The area of the land is about 7 cottah and 6 chittacks, as it appears from the photocopy of the deed of conveyance annexed to the writ petition as P-1.

The reason for which supply of independent connection is being held up are twofold.

First, the petitioners have been asked to provide space within the land for the purpose of setting up of a transformer as it is submitted on behalf of the C.E.S.C.Ltd., being the licensee that the Medium Volt AC network in the area is loaded to the capacity and a new transformer is required to be commissioned.

The second ground for withholding supply is that for the same premises, there are outstanding dues in respect of three other consumers. On the question of providing space for housing the distribution transformer, provisions of Clause 18 of the West Bengal Electricity Regulatory Commission (Recovery of Expenditure for Providing New Connections) Regulation 2005 has been referred to by the learned Counsel for the licensee.

This provision stipulates:18.

Space for housing Distribution Transformer. When the installation of requisitioned a distribution applicant(s)/intending the required housing the space his/their distribution needs transformer, consumer(s) in load shall the provide premises transformer for and associated equipment(s) at his/ their own cost.

Learned Counsel for the petitioners submits that his clients are willing to provide space for installation of the transformer within the said premises.

On the second ground, it has been submitted on behalf of the petitioners that the consumers in respect of whom there are dues have no nexus with the petitioners and the petitioners cannot be saddled with their liability, as a condition for supply of independent connection to them.

In this regard, two decisions have been relied upon on behalf of the petitioners. These are (i) M/S. Isha Marbles versus Bihar State Electricity Board & Anr, reported in J.1995(2) S.C.626, being a decision of the Honble Supreme Court, and another authority being a judgement of an Honble Single Judge of this Court in the case of M/S. Durga Construction Co. & Anr.

versus C.E.S.C.LTD. reported in 2009(2) CLJ(Cal.) 291.

On behalf of the C.E.S.C.Ltd., Rashi Metals PVT.LTD. versus West Bengal State Electricity Board & ORS. reported in 2007(1) CHN 21. has been relied upon by the learned Counsel for the C.E.S.C.LTD. In this case C.E.S.C.LTD. however has not been able to come up with any material to demonstrate that the petitioners have any nexus with the consumers in respect of whom there appear to be outstanding dues for the same premises.

Thus, I do not think the petitioners can be made to release such outstanding dues.

The writ petition accordingly shall stand disposed of with a direction upon C.E.S.C.LTD. to supply electricity to the petitioners on condition that the petitioners shall provide adequate space for installation of transformer within the premises in respect of which they seek connection.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(ANIRUDDHA BOSE, J.) nm

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