

18.12.2020
D/L- 26
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4324 of 2020
Arnab Dutta
Vs.
State of West Bengal & Ors.

Mr. Biswarup Biswas,
Mr. Gora Chand Samanta

....for the petitioner.

Ms. Suvashree Ghosh,
Ms. Sonal Sinha

...for WBSEDCL.

Mr. Malay Bhattacharya

...for the respondent no.8.

Affidavit of service filed in Court today be taken on record.

The petitioner claims to be residing at 46 Kalna Road, District – Burdwan (hereinafter referred to as the said premises). The said premises is supplied electricity through an existing meter by West Bengal State Electricity Distribution company Limited (in short WBSEDCL). The petitioner says that there are inter se disputes between the petitioner and the respondent no.8 (private respondent) in connection with the ownership of the said premises which originally belonged to the father of the petitioner and the private respondent. Civil suits are pending with regard to such disputes. The petitioner says that the petitioner has to bear the entire bill regarding the electricity consumed at the said premises and recorded in the existing meter installed thereat. The petitioner is interested to have a separate meter in his name and a new connection from the existing main supply at the said premises for enjoying electricity in the portion under his occupation.

The respondent no.8 says that the said respondent is the exclusive owner of the said property by virtue of a deed of gift. Civil suits are pending encircling such gift and the right of respondent no.8 in respect of the premises. The respondent no.8 further says that the petitioner is merrily enjoying electricity from the existing meter and it is the respondent no.8 who has to meet the bills under the fear of disconnection. The respondent no.8 also says that the said respondent is not residing in any part or portion of the said premises though she has legal possession in respect thereof. It is also submitted by the respondent no.8 that in an application made in a civil suit filed by the petitioner, the learned Civil Judge (Junior Division), 2nd Court, Burdwan has directed a sub-meter to be installed for the purpose of recording the consumption made by the petitioner at the said premises so that there is no dispute as to consumption by the petitioner and the respondent no.8 and the payment to be made in respect thereof. The respondent no.8 says that the petitioner refused to accept the sub-meter despite being offered by WBSEDCL and is now seeking a new connection which the petitioner cannot do so long as the order of the court below is in subsistence.

WBSEDCL refers to the letter dated 8th February, 2020 issued by WBSEDCL to the petitioner and submits that the petitioner is only entitled to a sub-meter in terms of the order of the civil court and unless there is a valid partition, multiple connection at the said premises cannot be given in view of its circular dated 14th December, 2018.

To my understanding, after hearing the parties and considering the materials on record, the petitioner is seeking installation of a new meter to be connected to the existing main supply for recording the electricity he will consume in the portion under his occupation upon

payment of all charges, statutory compliance and regular payment of the bills that may be raised by the licensee.

Inter se civil dispute between the petitioner and the respondent no.8 cannot stand in the way in the petitioner enjoying electricity. The idea of providing a sub-meter is to record the consumption made by the petitioner from the existing meter standing in the name of the private respondent no.8. Installation of a sub-meter according to me is likely to create further disputes at a subsequent stage. In the books of the licensee, the meter will stand in the name of the respondent no.8. In case of non-payment by the petitioner for the electricity consumed by the petitioner and recorded in the sub-meter, the respondent no.8 will continue to remain liable inasmuch as the meter stands in her name. The respondent no.8 has to pay the bill and file proceedings for realising the unrealised amount from the petitioner for the electricity consumed by him and recorded in the sub-meter. Moreover, a further round of litigation is contemplated if the electricity supply through the existing meter is disconnected for non-payment by the respondent no.8 after receiving money from the petitioner or for other reason attributable to the petitioner. The petitioner then has to file proceedings for redressal. The plea taken by WBSEDCL as to a valid partition is also not a tenable ground in law to refuse new meter to the petitioner.

Considering all these aspects, I think justice will be sub-served if WBSEDCL, the licensee is directed to install a new meter and give a domestic connection to the petitioner for his portion in the premises-in-question. The petitioner shall pay all costs and expenses for the installation of the new meter and connection, if not already paid, the petitioner has to

also regularly pay the bills that will be raised from time to time in connection with the new meter to be installed in the name of the petitioner. The connection has to be effected subject to all compliances by 31st December, 2020.

It is expected that the respondent no.8 shall co-operate with the officials of WBSEDCL for the purpose of installation of a new meter in the name of the petitioner and granting petitioner a domestic electric connection through the said meter.

The respondent no.7 is directed to ensure that no breach of peace takes place at the time of installing the new meter by WBSEDCL and shall remove any resistance and/or obstruction that may be posed by the respondent no.8 in course of WBSEDCL carrying out the work of installation of the new meter and granting the petitioner a domestic connection.

The installation of the new meter at the said premises or granting a new domestic connection to the petitioner shall not in any event create or abridge or extinguish any civil right of either the petitioner or of the respondent no.8 in respect of the said premises.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)