

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

23.12.2020
D/L- 1
Ct. 23
(suvendu)

**WPA 24202 of 2019
(Via Video Conference)**

Abdul Gaffar

Vs.

The Chairman and Managing Director, WBSEDCL & Ors.

Mrs. Joyita Rayfor the petitioner
Ms. Debjani Ghosalfor the respondent no.6
Mr. Srijan Nayak
Mr. Mihir Kundufor WBSEDCL

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

The petitioner says that the petitioner along with his wife had jointly purchased a residential flat on the 2nd floor, eastern side, being Flat No. S-1, of a Ground plus three storied building known as Mirarani Apartmen situate and lying at Kathgola Lane, Chawkbazar, Police Station –Chinsurah, Hooghly –712 103 (hereinafter referred to as the said flat) on 29th March, 2018 for valuable consideration. The petitioner's grievance is that even after expiry of a considerable period of time the promoter (respondent no.6) has made no arrangement for getting a main service electric connection at the said building and as a consequence thereof the petitioner is unable to get a meter and an electricity

connection through such meter at his flat. In fact, the petitioner's allegation is also that the respondent no.6 is asking for about rupees one lakh over and above the purchase price of the flat for providing a main electricity service connection at the building. The petitioner has applied to West Bengal State Electricity Distribution Company Limited (for short, "WBSEDCL") for a new connection in the petitioner's name. Despite such application, WBSEDCL has not provided the electricity to the petitioner.

On behalf of the respondent no.6 it is submitted that the said respondent had on the basis of a tentative calculated load of 30 KVA applied for a new service connection at the building known as Mirarani Apartment. WBSEDCL has informed that a transformer has to be installed to provide the infrastructural support for giving a service connection at the said apartment to cater 30 KVA load. WBSEDCL has asked for a huge sum for installing the transformer. According to the respondent no.6, the costs and expenses for the transformer has to be borne by the purchasers of the flats and the purchase deed also says so. Respondent no.6, however, says that out of six separate flats/units in the said building, four has been already sold out, one flat/unit is for the owner

of the property and the other is still unsold. The transformer's cost, according to the respondent no.6, has to be divided into six portions and the petitioner has to bare one portion for the same.

On behalf of WBSEDCL it is submitted that no separate domestic connection can be given to the petitioner. There has to be one service connection at the apartment. Separate meter can be allotted to the flat owners including the petitioner from such main service connection. The main service connection can be given only after installation of the transformer. Pursuant to the application made by the respondent no.6, WBSEDCL had twice raised quotation but no money has been deposited against the same. WBSEDCL further says that a 63 KVA transformer has to be installed and such transformer will be for exclusive use of the building known as Mirarani Apartment. WBSEDCL says that if the costs and expenses of the transformer and other payments necessary for giving a new service connection and separate meters to the individual flat owners is paid, WBSEDCL has no objection for giving the electric supply to the petitioner.

After hearing the parties and considering the materials on record, I find that two issues emerge in the instant case. One is the inter se disputes

between the petitioner (a flat owner) and the respondent no.6 (the promoter) regarding the costs and expenses for the new service connection at Mirarani Apartment and the sharing of the same. This dispute is beyond the purview of the writ court in as much as the same requires interpretation of the various Clauses contained in the petitioner's deed by which the petitioner purchased his flat. This dispute has to be resolved through a Civil Court or a competent forum as the case may be depending on the Clauses incorporated in the Deed. I cannot go into this dispute as the same will amount to exceeding the jurisdiction of a writ court or exercising a jurisdiction not vested on this Court while dealing with a writ petition for new electricity connection. So far as the electricity connection is concerned, the petitioner having purchased the flat is entitled to a electricity connection provided the petitioner bares all costs and expenses and complies with the statutory requirements.

Considering the matter in the light of the submissions made by the parties, I direct WBSEDCL to give a new service connection at the building known as Mirarani Apartment and a connection therefrom through an independent meter in the petitioner's name to the petitioner subject to

payment of all costs and expenses including that of the transformer and other costs and expenses and statutory compliance. WBSEDCL shall install the transformer, give a new service connection to the apartment and a new connection to the petitioner through a separate meter from the said service connection as expeditiously as possible from the date of payment of all costs and expenses but not beyond ninety days therefrom. So far as sharing of the costs and expenses are concerned, it will be open to the petitioner to have the same adjudicated through a competent forum. With regard to any dispute as to the estimate given by WBSEDCL, the petitioner has to ventilate his grievances before the electricity Ombudsman.

WBSEDCL has given an undertaking in the form of a declaration signed by Sri Nikhilendu Mukherjee, Assistant Engineer and Station Manager, Pipulpati C.C.C., WBSEDCL to the effect that the 63 KVA transformer proposed to be installed upon payment of costs and expenses shall be used only for the occupants of Mirarani Apartment not to be utilised to cater others. The said declaration is kept on record. The petitioner and the private respondent are supplied a photocopy of such declaration.

Since no affidavit-in-opposition is called for, allegations contained in the writ petition are deemed to be denied.

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

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

(Arindam Mukherjee, J.)