

18.11.2020
Item No. 04
Ct. No.19
PG

C.O. 1268 of 2020
Via Video Conference)
Sri Jagbandhu Pramanik & Ors.
Vs.
Divisional Manager, West Bengal State Electricity
Distribution Company Limited & Ors.

Ms. Sohini Chakraborty.....for petitioners

Mr. Srijan Nayak
Ms. Rituparna Maitra
Mr. Arindam Mitra.....for WBSEDCL

Ms. Chakraborty, learned advocate appears on behalf of petitioners. She submits, challenge is directed against Order no. 2 dated 10th September, 2020 made by Court of Civil Judge (Senior Division), Durgapur in Misc. Appeal no. 05 of 2020 (Jagabandhu Pramanik & Ors. vs. Divisional Manager, WBSEDCL, Durgapur & Ors.).

She submits, both trial and appellate Courts rejected her clients' prayer for ad-interim injunction restraining the distribution company from erecting electric poles on land, which her clients claim to be theirs, to provide electricity to private opposite parties. She draws attention to impugned order to submit, ad-interim injunction was refused by lower appellate Court on saying that her clients could show that they own only a fraction of land contained in the suit plot. According to said Court, they are the owners

of little less than 17 decimals out of 82 decimals and since ownership of co-sharers in suit plot is not well demarcated, injunction was refused.

On query from Court she submits, affidavit of service has been filed to show all opposite parties were sought to be served by post in September. The postal receipts are disclosed. Mr. Nayak, learned advocate appears on behalf of the distribution company while private opposite parties go unrepresented. Court presumes service.

On query from Court Mr. Nayak is unable to inform whether his client has ascertained that where the pole is sought to be erected, is land belonging to private opposite parties or that they are not erecting the pole on shared land, where petitioners are co-sharers, for giving service to some of all co-sharers. Impugned order directed service and requirement of show cause for hearing on whether there should be injunction. Ad-interim order ought to have been passed since petitioners, having disclosed some documents, stand to be defeated in their case unless there is restraint in changing the situation on the ground.

Impugned order, so far as refusal to grant injunction, appears to have been made with material irregularity and illegality. It is set aside. The distribution company is restrained from erecting pole

for effecting supply to private opposite parties till 30th November, 2020, within which time lower appellate Court will attempt to hear the injunction application and for that purpose extend the order thereafter, till by judgment it is either confirmed or vacated.

The petition is disposed of.

(Arindam Sinha, J.)