

09.12.2020
D/L- 17
(PP)

WPA 9016 of 2020

Sanaka Koley
Vs.
State of West Bengal & Ors.

Mr. Shanak Ghosh,
Mr. Sourav Mondal

....for the petitioner.

Mr. S. S. Koley

....for WBSEDCL.

Mr. Surendra Kr. Sharma

....for the respondent nos.8 & 9.

The petitioner had applied for a separate electricity connection in the premises identified under Khatian No.2527, J.L. No.150, Mouza – Dhanyahana, District – Hooghly. The petitioner has produced a copy of the record of rights to prima facie establish that the petitioner's name is recorded in the record of rights pertaining to the said property.

The private respondents (respondent nos.8 and 9) are claiming absolute ownership in respect of the property and as such, has filed a suit for injunction and declaration, being Title Suit No.337 of 2017, now pending before the Civil Judge (Junior Division), 2nd Court, Chandannagore for the same. In the said suit, by an order dated 8th August, 2018 the defendants were restrained from changing the nature and character and transferring of the suit schedule

property in any manner whatsoever till the disposal of the suit.

At the time of inspection by the officials of West Bengal State Electricity Distribution Company Limited (in short, “WBSEDCL”) in connection with the petitioner’s application, the officials were shown the order dated 8th August, 2018. After considering the order, the officials of WBSEDCL, by a letter dated 8th July, 2019 expressed their inability to give a new connection to the petitioner on the sole ground of the said order.

The respondent nos.8 and 9 say that the petitioner being a defendant in the suit has been specifically restrained by the order dated 8th August, 2018 and as such, is not entitled to make any construction for installation of meter to get new electricity connection. Moreover, the said respondents raised a point that the petitioner has not specified in respect of which portion of the premises-in-question the petitioner wants a new connection.

Civil disputes between the parties or even in the nature the order passed in the civil suit filed by the respondent nos.8 and 9 cannot stand in the way of the petitioner being denied a new electricity connection. The claim of absolute ownership said to have been made by the respondent nos.8 and 9 in their suit has not yet been adjudicated. Unless such adjudication

takes place and a decree is passed in favour of the respondent nos.8 and 9, the said respondents cannot hold out to be the absolute owner of the property-in-question thereby eliminating the petitioner's right from the same resulting in the petitioner being disentitled to ask for a separate electricity connection at the premises-in-question. It is now well-settled that even a trespasser is entitled to electricity.

In the facts of the instant case, the petitioner cannot be prevented from enjoying a separate electric connection by making a place in the premises for installing a meter provided the petitioner complies with the statutory requirements.

The respondent no.6 is directed to raise their quotation on the petitioner for the cost and expenses to be deposited by the petitioner for new connection, if the same has not already been done and release such money from the petitioner in the event the petitioner has not paid the same. The connection has to be effected by 22nd December, 2020 subject to the petitioner paying the entire amount required to be paid for the new connection and other statutory compliance. WBSEDCL shall fix a convenient place for affixing the meter. Any addition alteration limited to installation of the meter to enable the petitioner to get a new connection shall not be construed as violation of the order dated 8th August, 2020. The connection in favour

of the petitioner by making any provision for installing the meter will in no manner give the petitioner any right to equity or any right in respect of the property being the subject matter of the Title Suit No.337 of 2017, now pending before the Civil Judge (Junior Division), 2nd Court, Chandannagore.

It is made clear that the respondent nos.8 and 9 shall not resist the officials of WBSEDCL in effecting the connection and the local police station shall ensure that there is no breach of peace while the connection is effected to the petitioner.

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.)