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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9492 of 2020
(Through Video Conference)

Batasi Kayal
Vs.
C.E.S.C. Limited & Ors.

Mr. Suddhadev Adak
... For the petitioner.

Dr. Madhusudan Saha Roy
.... For C.E.S.C.

Mr. Jahar Dutta,
Mr. Jaladhi Das
... For the State.

Mr. Sounak Bhattacharya
... For the respondent no.5.

Pursuant to the order dated 9th December, 2020, the C.E.S.C. Limited, had inspected the area in question. Dr. Saha Roy, appearing on behalf of the C.E.S.C. Limited, submits that the concerned District Engineer of C.E.S.C. Limited has himself gone to the locale to find out a feasible alternative, apart from the route through which electric connection was proposed to be given to the petitioner and has found that there is no feasible alternative route. It is also submitted that instead of drawing an overhead line the underground cable will be laid down for the purpose of giving connection to the petitioner to cause minimum damage to the disputed piece of land.

Mr. Bhattacharya, appearing on behalf of respondent no.5 submits that the property through which the underground cable is proposed to be laid to provide electricity connection to the petitioner is an exclusive property of the said respondent. The respondent no.5 therefor opposes such proposal of laying underground cable.

On behalf of the petitioner it is submitted that the passage through which the underground cable is proposed to be laid down is not an exclusive property of the respondent no.5 but is a common passage through which the petitioner has right to ingress and egress.

The dispute *inter se* between the petitioner and the respondent no.5 regarding nature and character, usage and ownership of a piece of land through which the underground cable is proposed to be laid cannot be gone into in writ jurisdiction. At the same time, the petitioner cannot be denied electricity due to an objection of the respondent no.5. The respondent no.5, if can establish himself to be the exclusive owner of the property in question, will be entitled to claim compensation for the damage caused to his property due to the work carried out by C.E.S.C. Limited, the licensee. This can be claimed under Rule 3(2) of West Bengal Works Licensees Rules, 2006 by referring the matter to the concerned

District Magistrate. That apart and in any event, under the Indian Telegraph Act, 1885, the licensee is authorized to enter any premises for carrying out work. Electricity is also a matter of public utility and as such, wide powers are provided to the licensee.

Considering all these aspects, I direct the C.E.S.C. Limited to give connection to the petitioner within 15th January, 2021, subject to payment of all cost and charges payable by the petitioner, if not already paid and other statutory compliance. It is made clear that laying of underground cable in the plot of land in question will neither create any new right nor extinguish or abridge any existing right of the petitioner in respect thereof.

The respondent no.4, being the Officer-in-Charge, Sankrail Police Station, is directed to ensure that there is no breach of peace either at the time of laying of underground cable or while effecting electricity connection to the petitioner. The C.E.S.C. Limited shall, however, well in advance inform the said respondent no.4 about the date and tentative time when they propose to carryout the work.

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

Since I have not called for any affidavits, the allegations contained in the writ petition are

deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)