

18.02.2021
Sl. No.07
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via video conference)
WPA 107 of 2021

Somnath Das & Anr.
Vs.
West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Siddharta Chatterjee,
Mr. Amit chatterjee

....for the petitioners.

Mr. S. S. Koley

....for WBSEDCL.

Mr. Abhijit Basu

....for the respondent no.2.

Mr. Sumit Kr. Panja,
Mr. Sumit Ray

....for WBSETCL.

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

The petitioners say that the petitioners have purchased two adjacent plots in R.S. & L.R. No.154, J.L. No.14, Khatian No.391, Mouza - Basudebpur, Haripal, Hooghly (hereinafter referred to as the said two plots) by two separate registered deeds respectively dated 18th November, 201 and 28th June, 2011. The petitioners say that they are ordinarily residents of Chennai and as such, during the pandemic they were unable to come down to physically visit the said two plots-in-question. During the absence of the petitioners, a high tension electricity tower has been erected on a portion of the said two plots. The petitioners also say that the high tension line has not

yet been drawn from either side of the tower and as such, the question of energising the same at this stage does not arise. The petitioners are aggrieved by such action of erecting tower on the petitioners' land and drawing of high tension line over the said two plots as the same will render the said two plots un-usable. The writ petition is as a result of such acts.

On behalf of West Bengal State Electricity Transmission Company Limited (in short WBSETCL) an intervention is sought for in the matter. It is submitted on behalf of WBSETCL that the high tension line is drawn by WBSETCL by erecting tower on various plots of land as may be required after inviting objections in the newspaper. The petitioners did not object to the proposed erection in terms of the paper publication and as such, WBSETCL being empowered under the provisions of the Indian Telegraph Act, 1885 and Section 164 of the Electricity Act, 2003 has entered into the property and erected the tower. It is also submitted by WBSETCL that they are the necessary and proper party inasmuch as the drawing of line and energising the same is done by WBSETCL and only thereafter, the role of West Bengal State Electricity Distribution Company Limited (in short WBSEDCL) comes. It is also submitted by WBSETCL that the tower has been erected by its contractor, which has been admitted by the petitioners. It is also

submitted by WBSETCL that due to the objection made by the petitioners, the electric wires though drawn could not be energised to effect the supply. The entire project according to WBSETCL has been stalled due to the objections of the petitioners and greater public interest is in jeopardy. The petitioners in law are at the highest entitled to compensation as they are precluded from preventing WBSETCL from erecting a tower and drawing high tension line over the petitioners' land.

On behalf of the respondent no.2, it is submitted that the line has been drawn and the same has been energised in terms of the instruction given by WBSETCL. This fact is, however, disputed by the petitioners.

After hearing the parties, the following order is passed:

- (i) Two petitioners have joined in a single writ petition to ventilate their individual grievances. The petitioners are, therefore, directed to pay the additional court fees within 19th February, 2021.
- (ii) The latter part of this order will be effective only upon the petitioners paying the deficit court fees.
- (iii) WBSETCL is added as a party respondent. Since the advocate appearing for WBSETCL has the instruction to appear on behalf of WBSETCL, the petitioners shall cause service of an amended writ petition on the said

advocate instructed to appear on behalf of WBSETCL.

- (iv) The petitioners are permitted to ventilate their grievances before the District Magistrate, Hooghly within 8th March, 2021.
- (v) The concerned District Magistrate, if approached by the petitioners within such time frame, shall decide the issues that may be raised by the petitioners after hearing the parties and dispose of the matter by a reasoned order as also communicate the same to the parties within seven days from the date of passing the order. The entire exercise has to be completed by the learned District Magistrate within a period of six months from date. The concerned District Magistrate shall be entitled to make a survey, take assistance of the Block Land & Land Reforms Officer and other government agencies as may be required for the purpose of adjudicating the matter. The concerned District Magistrate, if approached, shall consider as to any alternative way for drawing the high tension line avoiding a tower being erected on the plots of the petitioners and drawing of electric wires over the same. In the event no alternative route is found to be feasible, the Magistrate shall decide on the issue of compensation that the petitioners may be entitled to on the tower being erected on the petitioners' plots and the electricity line being drawn over the same.
- (vi) Till disposal of the matter by the District Magistrate, *status quo* as on date as to commissioning of the high tension line

through the tower erected on the petitioners' land shall be maintained and WBSETCL shall not draw the wire, energise the line, if not already done, through the tower that has been erected on the property belonging to the petitioners.

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 upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)