

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 277 of 2020

Tapan Kumar Mondal
Vs.

The West Bengal State Electricity
Distribution Company Limited & Ors.

Ms. Sayanti Santra
... For the petitioner

Mr. Srijan Nayak
Ms. Rituparna Maitra
... For WBSEDCL

Mr. Md. Hasaunz Zaman
... For the respondent no.4

Leave is granted to the petitioner to correct the name of the respondent no.1 said to have been inadvertently typed as “West Bengal State Electricity Development Corporation Limited” instead of “**West Bengal State Electricity Distribution Company Limited**” in course of the day.

The petitioner has applied for a new electricity connection. The same could not be granted because the respondent no.4 (private respondent) objected to affixation of the pole. A sketch map was produced on 21st December, 2020 by West Bengal State Electricity Distribution Company Limited (hereinafter referred to as “WBSEDCL”). The Court found it difficult to ascertain the actual position and, as such, the concerned Assistant Engineer and Station Manager, WBSEDCL was directed to be personally

present in Court with a sketch map and other necessary documents to clarify the actual state of affairs at the locale for effective adjudication of the matter.

The said Assistant Engineer and Station Manager is present in Court. He has handed over a new sketch map along with certain other photographs through his advocate, which are taken on record. The respondent no.4 as also the petitioner have made over separate sketch maps, which are also taken on record.

After considering the sketch maps submitted by the respective parties and the photographs, it appears that the respondent no.4 is residing at Dag No.5737. In a portion of the adjacent Dag, i.e., Dag No.5738, the petitioner is residing. The plot of land under Dag No.5738 is "L" shaped. The portion of Dag No.5738 having frontage with the panchayat concrete road is not the portion where the petitioner is residing or seeks connection. In order to give a connection to the petitioner, WBSEDCL has proposed to affix a pole on the panchayat road at the confluence passage in between plots having Dag Nos.5737 and 5738 and draw the overhead electric line through the said passage to the petitioner's premises.

The respondent no.4 is present in Court. Through his advocate, the said respondent no.4 says that there are civil suit and criminal proceedings pending in connection with the passage over which WBSEDCL intends to draw the overhead line to given connection to the petitioner.

According to the private respondent, the passage in question through which the overhead electric line is proposed to be drawn belongs to the private respondent. By way of encroachment, the petitioner is using the said passage for ingress and egress. The private respondent is, therefore, objecting to the drawing of the overhead electricity line over the disputed passage.

The petitioner, however, disputes the submission of the private respondent to the extent of encroachment being made to a portion of Dag No.5737 for creating passage.

The portion, which is under occupation of the petitioner after considering all the three sketch maps, appears to be a land-locked portion without any frontage to the panchayat road. The Assistant Engineer and Station Manager of the concerned area explains that there is no alternative way other than the proposed route in granting connection to the petitioner.

The respondent no.4 in his sketch map has suggested an alternative way. By indicating a passage in between Dag Nos.5735 and 5736 to be a common passage said to be used by the petitioner for ingress and egress, the private respondent suggests that overhead electricity line should be drawn over the said passage. It, therefore, appears from the sketch map of the private respondent that the alternate passage shown by the said private respondent does not lead to the petitioner's plot.

The private respondent has neither the occupier nor the owner of either of the land covered under Dag Nos.5735 and 5736. The private respondent being personally present in Court has admitted the said position. The suggestion of the private respondent cannot be accepted because he is trying to entangle plots of land belonging to parties not connected to the writ petition into the dispute which will lead to further litigation.

The conduct of the private respondent is not appreciated by this Court. It is apparent that since the private respondent is himself enjoying electricity having a favourably located plot is trying to obstruct electricity being given to the petitioner. The objection of the private respondent therefor has no basis. It is also not a fit case to be sent to the concerned Assistant Engineer and Station Manager for adjudication on this issue. That apart and in any event, the concerned Assistant Engineer and Station Manager is present in Court and has already expressed his views. Nothing further can come out apart from that which has been recorded hereinabove if the private respondent is sent to the concerned Assistant Engineer and Station Manager for consideration of his objection.

After considering the respective submission and the materials on record, I am convinced that the petitioner is entitled to supply of electricity at the portion under the petitioner's occupation in Dag No.5738 since he has no connection as on date.

In the facts and circumstances, I direct WBSEDCL to give connection to the petitioner by erecting a pole on the municipal road at a convenient place near the passage between plots having Dag Nos.5737 and 5738 and drawing overhead electric line through the said passage to the petitioner's premises.

The nature and character of the passage and its title, which has been disputed by the private respondent will in no manner be altered by drawing overhead electric line over the same. The drawing of overhead line or granting connection to the petitioner will neither create any new right nor extinguish nor abridge any existing right of the petitioner over such passage.

I have not also decided any issue regarding the right, title and interest over and in respect of the passage in question.

WBSEDCL shall give the connection within 31st January, 2021 subject to the petitioner paying all charges and expenses and complying with the statutory requirements.

It is expected that the private respondent shall cooperate with the officials of WBSEDCL and the petitioner while the connection is given to the petitioner.

The respondent no.3, being the Inspector-in-Charge, Mograhat Police Station, is directed to ensure that there is no breach of peace in the locale while the officials

of WBSEDCL carry out the work to grant electric connection to the petitioner.

WBSEDCL and the petitioner shall before hand inform the Inspector-in-Charge, Mograhat Police Station (respondent no.3), about the date and tentative time when the officials of WBSEDCL shall go to the area for the purpose of executing the work.

It is also made clear that the private respondent will be free to take such steps as permissible in law if he is able to establish in a competent civil court that the disputed passage is his exclusive property.

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 compliance of necessary formalities.

(Arindam Mukherjee, J.)