

3
18.01.2021
sb
Ct23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 471 of 2020

Prabir Kumar Majumdar
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Animesh Paul,
Ms. Fatima Hassan,
... For the petitioner.

Mr. P. Das
... For WBSEDCL.

Mr. Bhagbat Chaudhury
... For the respondent no.5.

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

The petitioner says that the petitioner has
purchased a shop room at the ground-floor,
measuring 248.40 square feet (super built up area),
being shop no.SH-04, at Diamond Plaza Apartment,
Pandua, Hooghly, from one Md. Alauddin, son of
Marhum Md. Mohsin (respondent no.5), for a
valuable consideration by a registered deed of
conveyance dated 20th March, 2017. The petitioner
further says that the petitioner applied for an electric
connection at his shop room but the same has not
yet been given, despite the petitioner paying all
necessary charges, due to the resistance from the
respondent no.5.

Being aggrieved by such action, the petitioner has filed the present writ petition.

On behalf of West Bengal State Electricity Distribution Company Limited (in short, WBSEDCL), it is submitted that the petitioner's shop room is at the ground-floor of a multi-storeyed building. There is an existing service main at the said premises. Individual unit holders are given connection by allotment of separate meter and connecting the said meters to the existing service main. WBSEDCL, was always and still is ready and willing to grant connection to the petitioner in the manner aforesaid but due to steep resistance from the side of the respondent no.5, the connection could not be given.

On behalf of the respondent no.5, it is submitted that the petitioner, being an old tenant, has virtually received the shop room free of cost. There was a settlement under which the petitioner is liable to pay additional money but has not done so and that is the reason why the respondent no.5, has resisted the connection proposed to be given to the petitioner. It is further submitted by the respondent no.5, that the petitioner is free to receive connection at his shop room but not from the existing service main at the building in question. It is also submitted by respondent no.5, that he had to incur huge infrastructural expenses to get the service main at

the building in question and therefor the petitioner should not be allowed to get an electric connection without sharing such infrastructural expenses as that would again amount to the petitioner receiving electricity without paying for any infrastructural expenses. It is also submitted by the respondent no.5 that the petitioner does not have the way leave for drawing the connection from the existing service main supply to the shop room and on this ground also the petitioner should not be given connection.

After hearing the respective parties and considering the materials on record, the following are noticed.

- (i) The shop room is at the ground floor of a multi-storeyed building and therefor forms a part thereof. It is an unit of the said building. As a unit holder, the petitioner is entitled to get a connection at his shop room from the service main at the said building. This is more so because there cannot be more than one service main in a particular premises and all unit holders are entitled to receive electricity through separate meters in their name connected to the existing service main.

- (ii) The relationship between the petitioner and the respondent no.5, is governed by the registered deed dated 20th March, 2017. Any settlement as alleged by the respondent no.5 beyond the scope of the registered deed cannot be accepted in law unless the same is by another registered document. In absence of any such registered document, being produced, the assertion by the respondent no.5 about an alleged settlement outside the scope of the registered document cannot be accepted.
- (iii) After having sold the shop room to the petitioner without any stipulation to realise any infrastructural expenses said to have been incurred by the respondent no.5, for the service main at the building in question. The respondent cannot realise any such cost in absence of a separate document to that effect. No document has been produced by the respondent no.5 to establish the fact that the petitioner is liable to bear a

portion of the infrastructural expenses allegedly paid by the respondent no.5, for getting a service main from WBSEDCL.

- (iv) Since the petitioner is holding a shop room, being a unit of the building for which a single building plan has been sanctioned, the petitioner is not required to obtain any way leave to draw a connection from the existing service main or the common meter board to the petitioner's shop room. This submission of respondent no.5 on this ground is also not acceptable to the Court.

In view of the aforesaid, I direct WBSEDCL, to grant connection to the petitioner within 31st January, 2021, subject to the petitioner's paying all costs and expenses, if not already paid to WBSEDCL and other compliances except production of way leave.

It is expected that the respondent no.5 shall co-operate with the officials of WBSEDCL and the petitioner while the electricity connection is given by WBSEDCL to the petitioner at his shop room from the existing main service at the said building by installing a meter in common meter board or at any convenient place in the building in question as may be directed by

WBSEDCL.

The respondent no.4, being the Inspector-in-Charge, Pandua Police Station, is directed to ensure that there is no breach of peace at and around the premises wherein the petitioner's shop room is situated at the time when the work is executed by WBSEDCL for giving connection to the petitioner. WBSEDCL and the petitioner shall well in advance inform the respondent no.4 about the date and tentative time when the officials of WBSEDCL intend to visit the premises for giving connection to the petitioner.

Nothing further remains 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 with the necessary formalities.

(Arindam Mukherjee, J.)