

**MAT 144 of 2021
With
CAN 1 of 2021**

Sk. Asraf Ali

-Vs-

**State of West Bengal & Ors.
(Via Video Conference)**

Mr. P. K. Banerjee
Ms. Krishna Yadav

... for the Appellant

Mr. Kajal Roy

... for the Private Respondent

Mr. Srijan Nayek
Ms. Rituparna Maitra

... for the WBSEDCL

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

Under challenge in this appeal is the order dated
20th January, 2021 passed by the Hon'ble Single Bench
in the writ petition numbered as WPA 20982 of 2019.

The Hon'ble Single Bench took notice of two civil
proceedings between the private parties in this appeal
over a strip of land which the respondent no.7, both in
the appeal and in the writ petition, claims to be in
exclusive possession.

It is the case of the respondent no.7 in this
appeal, as also in the writ petition, submitted by Mr.
Roy, Learned Counsel, that although the writ
petitioner/the present appellant was not a party to the

first suit being Title Suit No. 200 of 2014, in the next suit being Title Suit No. 531 of 2018, the writ petitioner/the present appellant was a party.

The private respondent no.7 in this appeal defends the order of the Hon'ble Single Bench on the ground that there was suppression by the writ petitioner of the fact that there is no mention in the writ petition of an *ex parte ad interim* order of injunction passed on 21st day of December, 2018 directing the parties to maintain *status quo* as on date with regard to the four feet wide passage lying on the contiguous north of the scheduled suit property of the plaintiff/the private respondent no.7. The said *ad interim* order of injunction still subsists.

It is therefore submitted that the order of the Hon'ble Single Bench was correct in holding that non-disclosure of a material fact does not entitle the writ petitioner/the present appellant to any relief in equity.

Mr. Banerjee, Learned Counsel, appearing for the appellant with Ms. Yadav, Learned Advocate, takes this Court to paragraph 10 of the writ petition which requires to be set forth in its entirety:

"10) That your Petitioner states that your Petitioner thereafter received a letter from the Respondent No.5 i.e. Station Manager, Serampore C.C.C., W.B.S.E.D.C.L., Serampore wherefrom he came to know that one Jayanta

Boral raised objection and submitted order copy being Case No. 531 of 2018 mentioning that there is an injunction order in the said land in question. So, the Respondent No.5 cannot provide electric connection in respect of the disputed land in question.

Xerox copy of the said letter dated 10.1.2019 alongwith letter dated 10.1.2019 issued by Jayanta Boral i.e. Respondent No.7 and order dated 20.12.2018 in Title Suit No. 531 of 2018 are marked as Annexure “P-5” collectively.”

From the contents of paragraph 10 (supra), it transpires to this Court that a copy of the interim order in case no. T.S. 531 of 2018 was pleaded in black and white for the benefit of the Hon’ble Single Bench. It was further pleaded that because of the injunction order the respondent no.5/the licensee/WBSEDCL cannot provide electricity connection to the premises of the writ petitioner.

Mr. Nayek, Learned Counsel, appearing for the respondents/WBSEDCL produces a rough hand drawn sketch map for the convenience of this Court. From the sketch map (supra) it transpires that two electric poles already exist in the area and from the two electric polls electricity lines have been drawn in favour of several

consumers.

The WBSEDCL has no hesitation in providing one more connection to the writ petitioner/the present appellant from one of the two electric poles.

Having heard the parties and considering the materials placed, this Court is of the view that the pleadings at paragraph 10(supra) do not demonstrate that the writ petitioner/the present appellant suppressed the injunction order passed in Title Suit No. 531 of 2018 before the Hon'ble Single Bench.

On the contrary, to the mind of this Court, the facts connected to the injunction order as communicated by WBSEDCL to the writ petitioner were placed before the Hon'ble Single Bench.

Second, the drawing up of electric connection from one of the two poles already stationed in the area cannot frustrate the civil nature, character and possession of the premises in issue. It needs no iteration that the supply of electricity is an essential right.

In the backdrop of the above discussion, the respondents/WBSEDCL shall now proceed to grant electricity connection from one of the two poles in the area in favour of the writ petitioner/the present appellant upon compliance of the necessary formalities.

This order shall not be treated as a precedence

nor, shall it be a reflection on the merits of the pending civil proceedings and, is limited to only the grant of electricity connection from one of the two poles.

Let a copy of the writ petition being WP 20982(W) of 2021 be retained with the record.

Let the hand drawn sketch map be also retained with the record.

MAT 144 of 2021 and **CAN 1 of 2021** stand thus **disposed of**.

In the light of the issues as discussed above, affidavits are neither necessary nor invited and, the allegations made are therefore deemed to be denied and disputed.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Kesang Doma Bhutia, J.) (Subrata Talukdar, J.)