

AD. 22.
December 8, 2021.
MNS.

(Through Video Conference)

WPA No. 4209 of 2021
with
CAN 1 of 2021

Sri Bapi Kumar Purkait
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

Mr. Rudranil De,
Mr. Ziaul Haque

... for the petitioner.

Mr. Mani Sankar Chattopadhyay

...for the WBSEDCL.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das

...for the private respondent.

The grievance of the writ petitioner is that although the private respondent is merely a caretaker and despite the pendency of an eviction suit at the behest of the petitioner against the private respondent, the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL'), on the application filed by the private respondent, transferred the name of the consumer in respect of the electric connection to the premises-in-dispute from the petitioner's name to that of the private respondent.

Learned counsel appearing for the WBSEDCL contends that as far as the extant Regulations are concerned, the WBSEDCL is only to see as to whether a 'no objection' certificate has been issued and annexed to the application for transfer by the original owner.

In this case, since such an application and a copy of a 'no objection' certificate were submitted, the WBSEDCL had no further liability to enquire into the veracity of the 'no objection' certificate.

Learned counsel for the private respondent argues that the facts are just the converse of what has been argued by the petitioner. The private respondent, it is submitted, has a title deed to prove that the private respondent is the owner of the premises and, in fact, the petitioner might have been a caretaker at some point of time. However, by filing the eviction suit, the petitioner has obviously admitted that the private respondent is now in possession and, as the owner and occupier, the private respondent is entitled to have the electric connection transferred in his name.

Upon hearing both sides, it is evident that the WBSEDCL cannot be faulted for transferring the name, since no liability is cast upon the WBSEDCL to verify the authenticity of each 'no objection certificate', as per the existing Regulations, although it is expected, to obviate

such disputes as the present one, that the WBSEDCL looks into the veracity of the 'no objection' certificate and seeks some identity proof of the applicant and the person giving the 'no objection' certificate prior to transferring the name. The West Bengal Electricity Regulatory Commission is requested to look into the matter and to carry out appropriate alterations in the existing Regulations, to that effect, if necessary.

In the present case, there is a disputed question of title between the petitioner and the private respondent, the merits of which cannot be gone into by the writ court. Moreover, since the civil suit is pending, this court, sitting in writ jurisdiction, ought not to decide and enter into the merits of such contentions of the private respondent, since the same involves adduction of detailed evidence.

That apart, in the present case, the WBSEDCL was apparently not at fault in transferring the connection in the name of the private respondent, since the private respondent did file a purported 'no objection' certificate issued by the petitioner. Although the factum of issuance of such 'no objection' certificate is also a disputed question of fact, since such objection has been specifically raised before this Court, it will only be fair that the concerned officials of the WBSEDCL give an

opportunity of hearing to the petitioner, as well as to the private respondent, regarding the veracity of the 'no objection' certificate annexed with the private respondent's application for transfer of name.

The WBSEDCL shall give a notice to both the petitioner as well as the private respondent and other interested parties, if any, prior to such hearing in order to enable the private parties to be represented properly with necessary documents.

Upon such hearing, the WBSEDCL shall take a decision as to the veracity of the 'no objection' certificate. Although the WBSEDCL is not the appropriate authority to give a declaration as regards the veracity or falsity of the document, such enquiry shall be restricted only for the tentative purpose of ascertaining the veracity of the 'no objection' certificate. Such findings of the WBSEDCL shall not bind the parties in any manner in any civil proceeding and/or any other proceeding pending before a competent court of law.

Such exercise of hearing the parties and taking a decision thereon shall be completed within three weeks from date by the WBSEDCL.

In the meantime, the private respondent is granted liberty to apply for a fresh electric connection. In the event such an application is made, the WBSEDCL

shall consider the feasibility of the same and give such new connection, if possible, to the private respondent, subject to compliance of all formalities and in accordance with law.

The WBSEDCL shall, upon taking the decision as indicated above, decide on the ultimate fate of the application for transfer of name made by the private respondent and it will be open to the WBSEDCL to adjudicate in accordance with law without being influenced by any of the observations made herein.

With the aforesaid observations, WPA 4209 of 2021 and CAN 1 of 2021 are disposed of.

There will be no order as to costs.

The parties shall act on the written communication of this order by the learned Advocates for the parties, accompanied by server copies of this order, without insisting upon prior production of a certified copy thereof.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)