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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 5497 of 2021

Sumanta Biswas

-vs.-

The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Kajal Ray,
Mr. Aditya Sen

...for the petitioner

Mr. S.S. Koley

...for the WBSEDCL

Despite substantial service, none appears for the private respondents.

Affidavit-of-service filed in Court today be kept on record.

The petitioner alleges that the Distribution Company could not give new electric connection on the basis of the petitioner's application due to the resistance put up by the private respondents and their men and agents when the Distribution Company personnel went to inspect the premises in order to give connection.

Learned counsel appearing for the petitioner further contends that, although a partition suit is pending between the private parties in a civil court, there is no subsisting order of injunction passed in

such suit and/or any prayer made in the plaint thereof, which can affect the right of the petitioner to get electric connection to the premises-in-question.

Learned counsel appearing for the respondent nos. 1 and 2 submits that although the personnel of the Distribution Company actually went to the premises-in-question to hold an inspection and give such connection, they were resisted by several people, including the private respondents, and even the police authorities expressed their inability to extend any help in that regard, apparently due to pendency of the litigation before the civil court.

Since, despite several opportunities, none appears for the private respondents at the time of call, there is no option left but to take up the matter *ex parte* in their absence.

It is clear from the records that, despite pendency of a partition suit, there is no subsisting injunction order in the said suit. That apart, mere pendency of a partition suit cannot prevent the Distribution Company from giving a new electric connection to the petitioner, since the right to get electric supply is a basic need and associated with the fundamental right to life guaranteed under the Constitution of India. That apart, Section 43 of the Indian Electricity Act, 2003 categorically specifies that the Distribution Company has to give such

connection in the event the application is made, of course, subject to compliance of all formalities.

In the present case, there cannot be any impediment on the part of the police to give appropriate help at the time of inspection and giving such connection by the Distribution Company personnel.

Hence, W.P.A. No. 5497 of 2021 is allowed, thereby directing the respondent no. 2 to ensure that a new electric connection is given to the petitioner, subject to compliance of all other formalities by the petitioner, as expeditiously as possible, positively within a fortnight from date.

In the event the personnel of the Distribution Company face any obstruction and/or resistance from any quarter, including from the private respondents and their men and agents, the respondent no. 3, that is, the Officer-in-Charge, Bhadreswar Police Station, shall grant adequate police assistance for the purpose of giving such connection, if so approached.

It is made clear that such police help shall be given, if necessary, at the cost of the petitioner.

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

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)