

AD. 25.
December 14, 2021.
MNS.

(Through Video Conference)

WPA No. 13128 of 2021

Smt. Shibani Mondal
Vs.
The Superintendent, Burikhali
Group Electric Supply and others

Mr. Kamal Kanta kar

... for the petitioner.

Ms. Mitali Bhattacharya

...for the WBSEDCL.

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

Since more than two months have elapsed after the copies being sent and the learned Advocate for the petitioner submits that the track reports are not available now on the postal department website, it is deemed that all the parties have been served properly.

The grievance of the petitioner is that the private respondents, without taking any consent from the petitioner, arranged for taking electric connection over an electric pole, which has been installed within the land of the petitioner.

Learned counsel places reliance on the title deed annexed at page 10 of the instant writ petition in support of such proposition. It is further contended that it is *de hors* the law for the West Bengal State Electricity

Distribution Company Limited (in short 'the WBSEDCL') to have installed such pole without taking the consent from the petitioner and/or without considering the question of compensation to the petitioner.

Learned counsel for the WBSEDCL contends that the pole-in-question was installed as long back as in the year 2007. However, the first complaint in that regard, which is annexed at page 19 of the writ petition, was lodged by the petitioner only on July 2, 2020. As such, since several connections have been given over the said pole to different persons in the meantime, it will be counterproductive to remove the pole at this belated stage.

It is further contended that the electric pole was installed only in a corner of the premises-in-question, beside the concrete road.

Upon going through the nature of the complaints lodged by the petitioner, it appears that the petitioner initially took a stand on July 2, 2020 that the petitioner does not have any objection if the electric pole was removed from the center of the property and affixed at a corner thereof.

However, such stand was altered by the petitioner in her complaint dated July 28, 2021, which was filed one year thereafter, seeking complete removal of the electric pole from the property of the petitioner.

Since it is contended by the WBSEDCL that the pole has already been installed in a corner of the property-in-question, there is no scope of verification of such statement in a writ petition, without taking appropriate evidence.

That apart, since the title deed of the petitioner pertains to the year 2003 and the first complaint in that regard was lodged in the year 2020 only, there is no explanation for the inordinate delay of thirteen years for the petitioner to approach this Court for removal of the pole. Considerations of equity stand against the petitioner insofar as several other connections have been given over the said pole over the years. As such, there is no scope of removal of the pole at this belated stage, that too, after thirteen years of the same being installed and after seventeen years from the petitioner having allegedly purchased the property.

In such view of the matter, the writ petition fails.

Accordingly, WPA No. 13128 of 2021 is dismissed without any order as to costs.

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.)