

AD. 29.
December 21, 2021.
MNS.

(Through Video Conference)

WPA No. 13247 of 2021

Sudipta Ganguly
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Shibaji Kumar Das

... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Mr. Subash Chandra Atta,
Ms. Payel Paramanik

...for the respondent no. 6.

Learned counsel appearing for the petitioner contends that, despite having applied for a new electric connection after having made a construction in his owned premises, the petitioner's application was rejected by the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') on the ground of pendency of "court cases and legal obligations lying over the premises".

It is contended that the petitioner, an an occupant, is entitled to electric supply and the said right cannot be curtailed by the WBSEDCL, even in the teeth of any objection being raised by a third party.

Learned counsel for the private respondent no. 6 vehemently supports the rejection of the petitioner's application for new connection and contends that the purported transfer of ownership to the petitioner in respect of the disputed property and the construction made thereon are fraudulent and *de hors* the law respectively.

The private respondent no. 6 has initiated a civil suit and several other proceedings against the petitioner on such score, which are now pending.

It is, thus, submitted by learned counsel for the private respondent no. 6 that, in the event an electric connection is given to the petitioner at this juncture, the said legal proceedings may be rendered nugatory and redundant.

Learned counsel for the WBSEDCL submits that the WBSEDCL, in principle, has no objection to give a new electric connection, subject to compliance of all formalities by the petitioner and in accordance with law.

It appears upon hearing learned counsel for the parties that the private respondent's objection is on the foundation of the allegation that the deed executed in favour of the petitioner and the construction made by the petitioner are illegal. Since the matter is sub-judice before a civil court and connected criminal matters are pending as well, there is no occasion or necessity for the

writ court to enter into the merits of such allegations and counter allegations.

However, it is well-settled that even a mere occupant, by virtue of such occupation, is entitled to get an electric supply, as stipulated in Section 43 of the Electricity Act, 2003.

Moreover, since the new connection will not create any special equity and/or confer any privilege in favour of the petitioner, there is no scope of the pending litigations becoming nugatory and redundant upon such connection being given.

Accordingly, WPA 13247 of 2021 is allowed, thereby setting aside the decision of rejection of the petitioner's application for new electric connection, which is appearing at page 54 (Annexure P/5) of the writ petition and directing the WBSEDCL to give a new electric connection to the petitioner subject to compliance of all formalities, including the production of a 'way leave' certificate, in accordance with law.

It is made clear that such new connection, if given, shall not create any special equity and/or privilege in favour of the petitioner.

The observations made herein and/or such electric connection, if given, shall not, in any manner, affect the respective rights and contentions of the private parties in the pending litigations.

In the event the WBSEDCL personnel face any obstruction from any quarter in giving such connection, respondent no. 5, the Officer-in-Charge of the Onda Police Station, shall give necessary assistance for the purpose of holding inspection and giving such new connection by the WBSEDCL upon being so approached by the WBSEDCL personnel, at the costs of the petitioner.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)