

05
30.11.2021
TN

WPA No.13361 of 2021

Rama Goswami and others
Vs.
State of West Bengal and others

Mr. Narayan Chandra Mondal,
Mr. Bhaskar Mondal

.... for the petitioners

Mr. Shayak Chakraborty

....for the State

Mr. R.M. Chattopadhyay

....for the WBSEDCL

Mr. M. S. Chattopadhyay

....for the proforma respondents

Affidavits-in-opposition and affidavits-in-reply
filed in court today be kept on record.

Learned counsel for the proforma respondents
contends that, despite the subsistence of a *status quo*
order passed by a competent civil court on the suit of
the petitioners, the petitioners have been violating the
said order and trying to take possession of that
premises.

It is further contended that, due to such action
of the petitioners, the proforma respondents were

compelled to file an application for police help to implement the order of the injunction.

Learned counsel for the proforma respondents places reliance on the orders of police help and *status quo* order passed by a competent civil court, both annexed to the affidavit-in-opposition.

In reply, learned counsel for the petitioners, who seeks a direction on the Distribution Company to give electric connection to the petitioners, contends that the pendency of the civil suit and/or subsistence of the orders, as referred to above, does not prevent the petitioners from getting any electric connection to the premises, since it is a basic right of the petitioners to get such connection.

It is further argued that only the petitioner nos.1 and 5 were impleaded as defendants in the suit-in-question. As such, there cannot be any impediment for the petitioner nos.2 to 4 to get such electric connection in any event.

Learned counsel for the petitioners further contends that the petitioners stake a claim over the property and that the proforma respondents do not have any right, title or interest over the property.

Learned counsel appearing for the Distribution Company (respondent nos.2 and 3) takes a neutral stand and points out that no decision could be arrived

at by the Distribution Company due to pendency of the civil suit and subsistence of the order of *status quo*. However, the Distribution Company is ready to comply with whatever order is passed by this court.

Upon perusing the records and the pleadings, it is evident that, although the petitioners have been staking a claim to the property-in-dispute, in respect of which electric connection has been sought, the petitioner nos.1 and 5, who are parties to the civil suit, have as yet filed no written statement in the suit itself, in order to clarify their stand in the matter. As of today, a clear *status quo* order is subsisting regarding the possession and nature and character in respect of the suit property as well as a subsequent police help order directing implementation of such order, on the allegation of the proforma respondents of alleged violation of such order by the petitioners, is in force, it would not be appropriate and in consonance with law for the writ court to enter into the merits of the matter. In view of the civil court's order, the petitioner nos.1 and 5 are bound, particularly in the teeth of the police help order passed against them, not to disturb the possession of the proforma respondents.

Although petitioner nos. 2 to 4 are not parties to the said suit, it is evident that they seek electric

connection with regard to the same property, which is the subject-matter of the suit. Since the petitioner nos.1 and 5 have jointly filed this writ petition with the petitioner nos.2 to 4, the connection between the three and complicity is clear. As such, there is no scope of granting any direction in the present writ petition.

Accordingly, WPA No.13361 of 2021 is disposed of by granting opportunity to the petitioners to approach the appropriate civil court for getting an order regarding supply of electricity to the premises.

If such an approach is made, the competent civil court shall decide the issue without being prejudiced by any of the observations made in the present order.

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.)