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15.12.2021
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WPA No.14908 of 2021

Anusree Dhak
Vs.
The West Bengal State Electricity Distribution
Company Ltd. (W.B.S.E.D.C.L.) and others

Mr. K. K. Chakraborti,
Mr. S. Chakraborty,
Ms. S. Das

.... for the petitioner

Ms. Sima Sengupta

.... for the W.B.S.E.D.C.L

Mr. Prasanta Kr. Banerjee,
Ms. Krishna Yadav,
Ms. Indrani Nandi

.... for the respondent no.6

Mr. Rahul Singh

.... for the respondent nos.7, 8, 9 and 10

Learned counsel for the petitioner contends that, despite the petitioner having applied for a new electric connection, the Distribution Company has not given such connection as yet.

Learned counsel places reliance on a co-ordinate Bench judgment of this court reported at 2012 (5) CHN 52 [*Smt. Gita Das vs. CESC Limited and others*].

Learned counsel submits that the said co-ordinate Bench followed a Special Bench decision of this court and, as such, the same is binding on this court.

Learned counsel appearing for the Distribution Company submits that the connection could not be given due to the resistance put up by the private respondents. In view of such objection having been taken, the matter has been referred to the District Magistrate concerned, where it is still pending.

That apart, learned counsel for the private respondents submits that a suit is also pending between the petitioner and the private respondents before a competent civil court, which is also sub judice as yet.

In view of the fact that the Distribution Company was hindered, according to the company's version, due to the obstruction put up by the respondent no.4, there is no scope but to refer the matter to the concerned District Magistrate within the purview of the Electricity Act, 2003 and the connected Regulations issued by the West Bengal Electricity Regulatory Commission (WBERC).

Although the ratio of the judgment cited holds good in this case also, the same only entitles the petitioner to get a new connection notwithstanding

any objection raised by the respondent no.4 in that regard. The date of the cited judgment is June 8, 2012. However, subsequently, the Regulations have undergone alterations and, at present, a specific framework has been provided by the delegated legislation, which empowers the District Magistrate to decide such objections.

That apart, a civil suit is also pending between the parties, where their respective rights and contentions regarding the disputed property have been ventilated. The same is also sub judice.

In such view of the matter, there is no scope of interference in the matter by this court under Article 226 of the Constitution of India.

Accordingly, WPA No.14908 of 2021 is dismissed.

It is, however made clear, that this court has not gone into the merits of the respective contentions of the parties on any question and it will be free to both the petitioner as well as the private respondents and the Distribution Company to make out their respective cases before the District Magistrate as well as the civil court, without being prejudiced by any of the observations made herein.

The hearing notice issued in connection with the proceedings before the District Magistrate, handed

up by learned counsel for the private respondents, be kept on record.

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.)