

13th December,
2021
(AK)
19

W.P.A 16055 of 2021

Avijit Sil and another
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Arnab Roy
Mr. Satyam Mukherjee
...for the petitioners.

Mr. Kanak Kiran Bandyopadhyay
...for WBSEDCL.

Mr. Rupraj Banerjee
Mr. Soham De Dhara
...for the respondent no.6 & 7.

The petitioner's allegation is that, despite the petitioners having applied for separate connections in their own names at the premises-in-dispute, the distribution company is sitting tight over the matter.

It is further contended that when the distribution company personnel came to hold an inspection in respect of the premises for the purpose of ascertaining the feasibility of giving such new connection, the private respondents obstructed the personnel with the help of several people of the neighborhood.

Learned counsel appearing for the private respondents quite ably argues that there is scope of a different interpretation than generally imparted to the

expression “and/or”, as contained in Section 43 of the Electricity Act, 2003.

Learned counsel contends that in the present case, the literal rule, although taken into consideration, is overridden by the golden rule of interpretation, being that the legislature’s intention could not be that an occupier’s rights prevail over those of the owner.

According to learned counsel for the private respondents, the expression indicates only that, in the absence of the owner, the current occupier can be given a connection in the said occupier’s own name.

It is further contended that not only the private respondents, who do not wield any power in the locality, but the neighborhood people have also given a mass petition objecting to the petitioners taking electric connection.

Learned counsel appearing for the distribution company primarily contends that the petitioners have made two separate applications for electric connection in their own names and, as such, the composite writ petition filed by both, is not maintainable.

That apart, learned counsel contends that there was a mass petition from the neighborhood people, raising an objection to the petitioners getting such new connection

in their own name. That apart, the respondent no.6 also gave a written objection to such connection being given.

However, it is well-settled that the right to get electricity is a part and parcel of the fundamental right to life as guaranteed by the Constitution of India which also includes the right of an occupier of a property to enjoy electric connection.

Section 43 of the 2003 Act, read in such perspective, definitely confers a right to get electric connection on the occupier as well, of course, subject to due compliance of all formalities as required by law.

Since the private respondents have raised an objection, WPA 16055 of 2021 is disposed of by directing the WBSEDCL to give an opportunity of hearing to all the interested parties, including the petitioners and the private respondents, and thereafter to ascertain whether the petitioners are entitled to a new electric connection to the disputed property otherwise in accordance with law.

In the event it is found that there is no legal impediment to give such connection, the WBSEDCL, upon appropriate inspection of the property, will proceed to give such connection.

However, the present direction does not confer any special equity, right, title and/or interest on the petitioners in respect of the disputed property.

The periphery of the adjudication in the present writ petition is only the right of the petitioners to get new electric connections at the disputed premises, subject to their occupation of the same, and does not have any bearing upon the respective rights of the private parties with regard to the property-in-question.

It is further clarified that, in the event the WBSEDCL is of the opinion, upon hearing the petitioner and the private respondents, that the matter is required to be referred to the concerned District Magistrate within the purview of the 2003 Act, the WBSEDCL shall take expeditious steps to make such reference for the purpose of the District Magistrate to decide on the objections raised.

The parties shall act on the written communication of the learned Advocates of 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 copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

The petitioners, however, shall deposit the additional court fees, which would be required in the event the petitioners preferred separate writ petitions,

within a week from date. In default, the order will be deemed to stand recalled automatically, without further reference to court.

(Sabyasachi Bhattacharyya, J.)