

December 16, 2021
Item No. 3
Court No.1
SG/s.biswas

MAT 1130 of 2019
With
CAN 1 of 2019 (Old No. CAN 10021 of 2019)
With
CAN 2 of 2019 (Old No. CAN 10022 of 2019)

Md. Alauddin Molla @Alauddin Molla
vs.
The State of West Bengal and others

(Through Video Conference)

Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee, Advocates

... for the appellant

This appeal is directed against the order of learned single Judge dated 12.06.2019 passed in WP 7381 (W) of 2019 whereby learned single Judge has dismissed the petition on the ground that the petitioner's title is in dispute and therefore the direction to supply the electricity cannot be given.

The record reflects that the appellant had approached the writ court with the plea that he is the title-holder in possession of the premises in question and he had submitted an application to WBSEDCL for new electricity connection which was duly approved and a letter of quotation towards the petitioner dated 04.01.2017 was also sent but thereafter nothing was done.

Learned counsel for the appellant has drawn attention of this court to Section 43 of the Electricity Act, 2003 and has submitted that even the occupier is entitled to receive electricity connection, therefore, the title dispute is not relevant. He has also pointed out that no affidavit-in-opposition was filed by the other side before learned single Judge, therefore, their stand is not on record.

Having examined the record, we have noticed that learned single Judge by a short order has dismissed the petition. The other side has not called upon to file affidavit-in-opposition and place their stand on record.

The provision of Section 43 pointed out by learned counsel for the appellant requires consideration while examining right and entitlement of the appellant to receive the electricity connection. If for any reason the respondents were unable to supply electricity connection to the appellant then they ought to have placed their stand on record in writing disclosing the clear reason for the same, which has not been done in the present case.

In the above circumstances, we deem it proper that learned single Judge should take a fresh decision in the writ petition after giving an opportunity to the other side to place their stand on record in writing. Hence, the order of learned single Judge is set aside. The matter is remitted back for fresh consideration in accordance with law after taking into account the observations made above.

The appeal and the connected application are accordingly disposed of.

Urgent certified Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]