

15<sup>th</sup> December,  
2021  
(AK)  
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**W.P.A 19094 of 2021**

Ajaharuddin Sipai  
Vs.  
The Chairman, West Bengal State Electricity Distribution  
Company Limited and others

Mr. Bipin Baidya  
...for the petitioner.

Mr. Amitabh Shukla  
...for WBSEDCL.

Mr. Raghunath Chakraborty  
Mr. M. Ahmed  
...for the respondent nos.5 to 8.

Mr. Jahar Datta  
Mr. Bipin Ghosh  
...for the State.

The petitioner contends that despite the petitioner enjoying an ex parte decree passed by a competent Civil Court in favour of the petitioner's father, the private respondents are creating hindrance when the distribution company is trying to give electric connection to the petitioner's premises.

Learned counsel places reliance on such decree, a photocopy of the certified copy of which has been annexed to the writ petition, as well as a deed of gift purportedly executed by the petitioner's father in favour of the petitioner.

It is contended that the father of the petitioner, who was the decree-holder in the said suit, bearing Title Suit

no. 174 of 2004, had donated the property in favour of the petitioner.

Learned counsel appearing for the private respondents submits that the private respondents specifically object to such connection being taken by the petitioner.

By placing reliance on a hand sketch map annexed at page-29 of the writ petition itself, learned counsel for the private respondents points out that the private respondents are the owners of C.S. plot no. 2562 which has been shown to be adjacent to the petitioner's plots at 2560 and 2561.

However, it is pointed out that the decree was not passed in respect of 2562 but was only in respect of plot nos. 2560 and 2561; as such, the electric connection cannot be taken over Dag No. 2562.

Learned counsel appearing for the Distribution Company corroborates the stand of the private respondents regarding their having raised objection to a new connection being given to the petitioner.

Upon a consideration of the materials-on-record on a tentative basis, solely for the purpose of deciding the present writ petition, it appears that Dag No. 2562, which belongs allegedly to the private respondents, was not the subject-matter of Title Suit No. 174 of 2004, which was decreed ex parte on July 7, 2014 by the Civil Judge (Junior Division), First Court at Baruipur, District- South 24 Parganas.

Hence, the decree passed in the said suit, declaring that the plaintiffs therein have right to use the passage as described in the scheduled property and granting permanent injunction restraining the defendants from creating disturbance in such use of the suit passage, does not cover plot no. 2562.

However, there is sufficient doubt as to the exact nature of the issue between the parties, since it may very well be that there is no other passage but plot no. 2562 for giving the connection. Instead of resorting to conjecture and surmise, it would be better if it is left to the authority, designated by the law and extant regulations to decide the matter.

Accordingly, WPA 19094 of 2021 is disposed of by giving liberty to the Distribution Company and/or either of the private parties to approach the concerned District Magistrate with the grievance in respect of the petitioner's new connection being given and/or objection thereto.

If such an approach is made, the District Magistrate shall decide the same as expeditiously as possible, without being unnecessary influenced on merits by any of the observations made herein.

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.

**(Sabyasachi Bhattacharyya, J.)**