

08
21.12.2021
TN

WPA No.19812 of 2021

Babusona Kundu
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Dhananjay Banerjee,
Ms. Oindrila Ghosh

.... for the petitioner

Ms. Suvasree Ghose

.... for the WBSEDCL

Mr. Tanweer J Mandal,
Ms. Somashree Dey

.... for the private respondents

Leave is granted to the learned Advocate appearing for the petitioner to amend the cause title of the writ petition by altering the designation of the respondent no.3. Such amendment shall be carried out during the course of the day.

Learned counsel for the petitioner contends that the petitioner is a licensee in respect of the premises where the petitioner is residing.

It is submitted that despite the petitioner having applied for a new electric connection in the petitioner's

name, the Distribution Company has not yet given such connection.

Learned counsel for the private respondents controverts such submissions. Since no affidavits have been invited, it is deemed that the allegations made in the writ petition are denied by the respondents, including the private respondents.

Learned counsel for the private respondents also contends that a similar writ petition was dismissed for default on March 11, 2021 and hands up a print out of the sever copy of the order dated March 11, 2021 in WPA No.5793 of 2021 passed by a co-ordinate Bench.

However, since the adversities being faced by the petitioner due to lack of electric supply is a continuing cause of action, the said dismissal does not debar the petitioner from taking out the present writ petition without preferring any restoration application in consonance with the principles of Order IX Rule 13 of the Code of Civil Procedure (for short “the Code”).

The plinth of the submission of learned counsel for the private respondents is that the said respondents are enjoying an eviction decree against the petitioner, which has attained finality.

It appears upon hearing learned counsel for the Distribution Company as well as the private parties

that, at the present juncture, certain objections have been raised by the private respondents to the new connection being given to the petitioner. However, despite the subsistence of an eviction decree against the petitioner at this point of time, it cannot be said that the said decree 'has attained finality' inasmuch as such decree is 'in jeopardy' in view of the pendency of the restoration application under Order IX Rule 13 of the Code. As such, since it is well-settled that an occupier, even if unlawful, is entitled to electric connection as a corollary to the right to life, there is no scope for the private respondents to obstruct such endeavour of the petitioner, until and unless the restoration application is finally decided, if at all, in favour of the private respondents.

As such, WPA No.19812 of 2021 is disposed of by directing the West Bengal State Electricity Distribution Company Limited (for short "the WBSEDCL") to hold necessary inspection and to give new connection as requested by the petitioner, upon due compliance of all formalities, from the existing meter board position at the premises-in-question. The respondents and their men and agents are restrained from creating any obstruction to such connection being given. It will be open to the WBSEDCL personnel to approach the local police for adequate

assistance in taking such inspection or giving the connection. The respondent no.4, the Officer-in-Charge of the Bhadreswar Police Station shall, if so approached, grant adequate police help to the WBSUEDCL personnel at the petitioner's cost. It is, however, made clear that this court has not gone into the merits of the pending civil matter and the new connection, even if given to the petitioner, shall not create any special equity or privilege in favour of the petitioner.

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.)