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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 20651 of 2021

Dina Chauhan & Anr.

-vs.-

**The West Bengal State Electricity
Distribution Company Limited & Ors.**

Mr. Soumyojit Das Mahapatra,
Mr. Soumya Basu Roy Chowdhury,
Mr. Hamidul Haque
...for the petitioners

Mr. Debjit Mukherjee
... for the WBSEDCL

Ms. Shraddha Satpati
... for the respondent nos. 4 and 5

Mr. Dhananjay Banerjee,
Ms. Oindrila Ghosh
... for the respondent nos. 7 and 8

The petitioners contend that, due to resistance being created by the private respondent nos. 4 and 5, the Distribution Company has been unable to give a new domestic electricity connection to the petitioners, despite the petitioners having duly applied for the same. It was intimated by the Distribution Company that the respondent nos. 4 and 5 having raised an objection thereto.

Learned counsel appearing for the Distribution Company indicates that, due to an objection being

specifically raised by the respondent nos. 4 and 5, which is civil in nature, the Distribution Company could not give such connection to the premises of the petitioners.

Learned counsel appearing for the private respondents controverts the submission of the petitioners and submits that no allotment was ever given to the petitioners and that the petitioners are in unlawful occupation of a major portion of the premises-in-question. As such, the petitioners' occupation is patently illegal and is subject to the adjudication of a civil dispute, if any, instituted.

However, it is well-settled that the legality or propriety of the occupation cannot be a hindrance in a prospective consumer getting electric connection, if the prospective user is in physical occupation of the premises-in-question. In Section 43 of the Indian Electricity Act, 2003, the right of an occupier has been specified clearly and is not fettered by any rider as to the illegality of the nature of occupation.

As such, W.P.A. No. 20651 of 2021 is allowed, thereby directing the Distribution Company to ensure that a new domestic connection is given to the petitioners, subject to compliance of all due formalities, within a week of such compliance and/or within a week from date, whichever is later.

It is made clear that such connection, if given, shall not create any special equity in favour of, or prejudice to, the rights and contentions of the petitioners and/or the private respondents before any authority or any court of law.

In the event the private respondents nos. 4 and 5 create any hindrance to such connection being given, it will be open to the Distribution Company personnel to approach the respondent no. 3, that is, the Officer-in-Charge, Liluah Police Station, for adequate police assistance.

If so approached, the respondent no. 3 shall grant such assistance as expeditiously as possible, at the cost of the petitioners.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)