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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8399 of 2020

(Through Video Conference)

Mayuri Bandyopadhyay

Vs.

West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Apratim Bhattacharya

... For the petitioner.

Mr. R. M. Chattopadhyay

... For WBSEDCL.

Mr. Shubhamay Bhattacharya,

Mr. Arnab Roy,

Mr. Sourish Biswas,

Ms. Ishani Kundu

... For the respondent no.5.

The petitioner says to be in possession of a flat, being no.202, at premises no. EE 194, Sector-II, Salt Lake, Kolkata – 700 091 (hereinafter referred to as the said premises). The petitioner says to be enjoying electricity at the said flat from a meter standing in the name of the respondent no.5 (private respondent). The petitioner alleges that the supply through the said meter has been disconnected and, as such, the petitioner is without electricity. The petitioner has filed a suit, being Title Suit No.328 of 2020, inter alia, for declaration and injunction. In the said suit, a report has been called for from I.C.,

Bidhannagar East Police Station, regarding the petitioner's allegation, being plaintiff in the said suit, about the unauthorized disconnection of electricity by the respondent no.5, being the defendant therein. The petitioner has thereafter approached West Bengal State Electricity Distribution Company Limited (in short, WBSEDCL) for a new electric meter and a connection therefrom. Having not been granted the electric connection, the petitioner has filed the instant writ petition.

On behalf of WBSEDCL, it is submitted that the petitioner was required to produce the list of documents appended to the application form. The petitioner has not submitted any such document and as such, WBSEDCL did not accept the petitioner's application.

On behalf of respondent no.5 (private respondent) it is submitted that the said flat is in the name of the respondent no.5. The respondent no.5 is the exclusive owner of the said flat. The meter through which the electricity was supplied to the said flat is also in the name of the said private respondent. The petitioner, being a close relative of the private respondent, on the request of the petitioner, was allowed temporarily to occupy the said flat for a few days by the private respondent. The petitioner is now trying to restrain the private

respondent from even entering, using and enjoying the said flat. The private respondent as a consequence thereof, has filed a suit for recovery of possession. The private respondent says that the petitioner has approached this Court with unclean hands and by suppressing the material facts. The petitioner has tried to make out a concocted story to suit her purpose so that she could grab on the said flat.

Be that as it may, since this Court in exercise of its writ jurisdiction is not adjudicating the rights *inter se* between the petitioner and the private respondent with regard to the said flat, this Court refrains from making any observation as to the dispute between the petitioner and the private respondent. However, the fact remains that the petitioner is in occupation of the said flat and the private respondent having applied for recovery of possession has also admitted this fact that the petitioner is in occupation of the flat but says to be doing so in an illegal and unauthorized manner.

So long as the petitioner is in occupation of the said flat, the petitioner is entitled to electricity, being in settled possession thereof unless evicted by due process of law. The electricity connection that may be given to the petitioner will neither create any new right nor abridge or extinguish any existing right

of the petitioner vis a vis the private respondent with regard to the right, title and interest of the said flat. The petitioner, however, has to comply with all formalities and apply to WBSEDCL for a new low tension meter connection from the existing service main at EE-195, Sector-II Salt Lake Police Station, Bidhannagar, Kolkata - 700091 with necessary documents.

Since there is no application of the petitioner as of date, the petitioner is permitted to apply afresh with all necessary documents to WBSEDCL by 5th February, 2021.

WBSEDCL will process the petitioner's application immediately and shall intimate the petitioner regarding any further statutory compliance needed to be done by the petitioner. The entire exercise has to be completed by WBSEDCL within ten days from the date on which the petitioner makes a fresh application with all documents. WBSEDCL for the purpose of raising quotation shall make an inspection on 6th February, 2021 at 12.00 noon. It is expected that the private respondent and the petitioner shall co-operate with the officials of WBSEDCL for the purpose of carrying out the inspection to raise a quotation for giving new connection to the petitioner. In the event, the petitioner's application is found to be in order,

WBSEDCL shall give connection to the petitioner within 28th February, 2021.

The Inspector-in-Charge, Bidhannagar Police Station, Bidhannagar East, being the respondent no.4 shall ensure that there is no breach of peace in or around the said premises at the time when the officials of WBSEDCL go for inspection on 6th February, 2021.

A copy of this order shall be served upon the respondent no.4 by the petitioner prior to 6th February, 2021.

It is made clear that I have not gone into any dispute inter se between the petitioner and the private respondent so far as the right, title and interest in respect of the said flat is concerned. The observations made hereinabove are all for the purpose of adjudicating the instant writ petition. The learned Courts, wherein the civil proceedings between the petitioner and the private respondent are pending, shall not be influenced in any manner whatsoever by any observation made in the instant order.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are

deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)