

22-03-2021
Court No.2
Sh-3

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI
(Through Video Conference)**

W.P.A. 636 OF 2021

Gouri Ghosh & Ors.
Vs.
WBSEDCL & Ors.

Mr. Deborshi Dhar.
.. For the Petitioners
Mr. Abhijit Raha
..For the respondent no.5
Mr. Sudipta kanta Bhowmik,
Ms. Dipti Bhowmik.
..For the respondent no.3

Parties are represented through their learned advocates, the name of whom are shown above at the beginning of the order sheet.

The instant writ application is against the inaction of the respondent Electricity Authority in particular, respondent no.3 for providing electricity to the writ petitioners in respect of their dwelling house, where they have been presently occupying.

The principal grievance raised by the writ petitioners is that in the absence of electricity, the petitioners are put to face immense hardship. The writ petitioners claim to be occupying the house for some time past.

It is the further contention of the writ petitioner that previously several applications were made before the respondent authorities to obtain electricity and the

respondent authority without having understood the purport of the application made a communication to the writ petitioners requiring production of several documents in terms of the requirement of the rules for supplying electricity to the writ petitioners.

The learned advocate, Mr. Sudipto Kanta Bkhowmik, representing the electricity authority submits that electricity authority can only provide electricity to the occupiers of the building subject to the fulfillment of the requirement supported by sufficient documents in support of the occupation of the building together with no objection certificate of the owner of the building, if there be any, and upon fulfillment of such pre-requisites, the electricity as required to be enjoyed by the petitioners, may be given.

Learned advocate Mr. Abhijit Raha, representing the private respondent no.5 submits that the writ petitioners are the permissive occupiers and they have no vested right to the house in question, where the writ petitioners have been occupying. It is disclosed by the learned advocate for the private respondent no.5 that there is a family dispute between the parties as regards ownership of the house in question. Referring to sale deed being 4181 dated 7th July, 1979, learned advocate for the respondent no.5 submits that the subject building previously was in the name of Saroj Kumar Ghosh, who during his life time executed a deed of sale in favour of his eldest son, Dilip Kumar Ghosh causing deprivation to the other four sons.

The writ petitioners involved in this case, according to the private respondent no.5, are the

descendents of one Babla Ghosh being the son of Saroj Kumar Ghosh.

By reason of the submission disclosed by both the parties, it appears that there is a family dispute between the parties over the ownership of the subject house in question, where the writ petitioners are the permissive occupiers. In spite of being a permissive occupiers of the house in question, the writ petitioners require enjoyment of electricity in an uninterrupted manner till their occupation is declared illegal by an order of the Court.

Indisputably, the sale deed being No.4181 standing in the name of Dilip Kumar Ghosh has not been challenged before any Court of law. The family dispute may be resolved before appropriate Court of law

Having considered the submissions of both the sides, the Court is of the view that the instant writ application may be disposed of, so as to sub-serve the purpose of justice giving direction mentioned as hereunder:

The respondent No.3, being the Assistant Engineer and Station Manager, Milanpally Branch, West Bengal State Electricity Distribution Company Ltd. Is directed to consider the application of the petitioners for supply of electricity to the writ petitioners within a fortnight upon fulfillment of the requirement of law, subject to the production of the sufficient documents revealing the occupation of the writ petitioners in respect of the subject building together with no

objection certificate of the respondent no.5, in support of existing occupation of the building, and if any application is made afresh furnishing the documents within a week from date, the respondent electricity authority shall consider the same and provide the electricity expeditiously without causing any delay to the writ petitioners bearing in mind that electricity is extremely necessary for our present existence.

With these observations and directions, the writ petition is disposed of without any order as to costs.

Since no affidavits have been called for, the allegations contained in the writ petition, shall be deemed not to have been admitted by the respondents.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties expeditiously on compliance of all requisite formalities.

(SUBHASIS DASGUPTA, J.)