

16.12.2021

Court No.1,
Item No. 7
PJ/SK

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI.

M.A.T. 41 of 2021
IA NO. CAN 1 of 2021
(Via Video Conference)

Gouri Ghosh & Ors.
Vs.
West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Deborshi Dhar
....for the appellants.

Mr. Sudip Kanta Bhowmik,
Ms. Dipti Bhowmik
... For the respondent no. 3.

Affidavit-of-service filed on behalf of the appellants be kept with the record.

In spite of service, the respondent no. 5 is not represented nor any accommodation is prayed for.

By consent of the parties, the appeal and the application are taken up together and disposed of by this common order.

The appellants claim to be the occupiers of a piece and parcel of the land and had alleged before the learned Single Judge that the Electricity Authorities have disconnected their lines at the instigation of the respondent no. 5. The respondent no. 5 has illegally disconnected the electricity connection and in spite of request being made, the Electricity Authorities had refused to restore the same.

The learned Single Judge disposed of the writ petition with the following observations:

“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.”

The appellants are aggrieved by the said observations made in the impugned order in the effect that one of the conditions imposed by the learned Single Judge was that production of No Objection Certificate of the respondent no. 5.

It is submitted that since the respondent no. 5 is a wrongdoer and disconnected the electricity connection by the electricity authorities, the

question of respondent no. 5 giving No Objection Certificate could not and does not arise.

Having regard to the fact that the electricity connection is extremely necessary for living and is essential supply, the requirement of law does not cast any obligation of the appellants/petitioners to produce a No Objection Certificate from a person who has disconnected the electricity connection.

In view of the Special Bench Judgment of the Calcutta High Court in the case of ***Abhimanyu Mazumdar Vs. Superintending Engineer***, reported in ***2011 (2) CHN (Cal) 768***, the appellants/petitioners are entitled to electricity connection irrespective of No Objection Certificate be produced by the respondent no. 5.

In view thereof, the impugned order is modified only to the extent that the appellants/petitioners would not be required to produce No Objection Certificate from the respondent no. 5. All other conditions shall remain un-altered.

M.A.T. 41 of 2021 and the connected application being I.A. No. CAN 1 of 2021 are disposed of accordingly.

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Biswajit Basu, J.)

(Soumen Sen, J.)