

9th February,
2022
(AK)
04-05

W.P.A 1429 of 2022

Bhanu Bala Bar and others
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

With

W.P.A 1828 of 2022

Sasadhar Bar and another
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

(Via Video Conference)

Mr. Mrinal Kanti Ghosh
...for the petitioners.

Mr. Sujit Sankar Koley
...for WBSEDCL.

Dr. Indrajit Mandal
Mrs. Priyanka Jana
...for the respondent nos.6 to 10.

Learned counsel for the petitioners submits that despite an order having been passed on November 1, 2021 by the District Magistrate, South 24 Parganas directing the Distribution Licensee to remove an installed electric meter which is being used by the private respondents within two weeks from that date, the Distribution Licensee has failed to do so.

Learned counsel appearing for the Distribution Licensee submits that, despite several efforts, the Distribution Licensee personnel could not effect such removal due to resistance being put up by the private respondents.

Learned counsel appearing for the private respondents submits that although a decree for declaration of the petitioners' title and permanent injunction restraining the private respondents from disturbing the possession of the petitioners was passed by a civil court and affirmed up to second appeal, a Special Leave Petition is pending at present in the Supreme Court against such order of dismissal of second appeal.

Learned counsel appearing for the petitioners, however, controverts and submits that the Special Leave Petition has, since, been dismissed by the Supreme Court.

It is further submitted by learned counsel appearing for the private respondents that the meter-in-question was installed in accordance with law and ought not to be removed.

However, irrespective of the fate of the SLP, it is admitted that the petitioners are at present enjoying a decree passed by a competent civil court declaring the petitioners' title in respect of the premises-in-question and restraining the private respondents by a decree of

permanent injunction from disturbing the possession of the petitioners in any manner.

Until and unless the decree of the trial court, as affirmed up to this court, is set aside by the Supreme Court, if at all, the petitioners remain the title-holders and possessors in respect of the premises, thereby defeating the cause being sought to be made out by the private respondents.

Moreover, WPA 1828 of 2022, which has been filed by the private respondents in WPA 1429 of 2022, who met with failure in the suit-in-question, has been preferred patently as an afterthought subsequent to filing of WPA 1429 of 2022, challenging the order passed by the District Magistrate.

Although it has been sought to be contended by the private respondents in WPA 1429 of 2022 that a Judicial Officer of the rank of Additional District Magistrate had passed the order-in-question, which is being passed off as the order of a District Magistrate, there is nothing substantial on record to establish such allegation before this court, since the photocopy of the certified copy of the order-in-question clearly indicates that the District Magistrate signed the same.

In such view of the matter, WPA 1429 of 2022 is allowed, thereby directing the WBSEDCL personnel to remove the electric meter-in-question immediately,

preferably within three weeks from date, pursuant to the direction of the District Magistrate.

In the event any resistance is put up by the private respondents in WPA 1429 of 2022 in that regard, it will be open to the WBSEDCL personnel to seek police assistance from respondent no.5, the Officer-in-Charge of the Sonarpur Police Station (now at Narendrapur Police Station).

If so approached, the respondent no.5 shall immediately grant such assistance at the cost of the petitioners.

WPA 1821 of 2022 stands dismissed in the light of the above observations.

The parties shall act on the written communication of the learned Advocates for the parties, coupled with server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)