

ML-54
Ct No.09
07.11.2022
TN

WPA No. 2272 of 2022

Uttam Das
Vs.
West Bengal State Electricity Distribution Company
(WBSEDCL) and others

Mr. Mukteswar Maity,
Ms. Manika Sarkar

.... for the petitioner

Mr. Mihir Kundu

.... for the WBSEDCL

Learned counsel for the petitioner contends that the petitioner has no connection whatsoever with his brothers, against whom the WBSEDCL has allegedly brought allegations of pilferage of electricity.

It is submitted by learned counsel for the WBSEDCL that there is patent nexus between the petitioner and his brothers, since the land on which the petitioner is residing is common with his brothers and belongs to the father of the petitioner.

Such contention is refuted by learned counsel for the petitioner, who places reliance on the affidavit-in-reply, including the averments made therein and the documents annexed thereto, to indicate that the petitioner obtained a separate sanction for making a construction and has subsequently made such separate construction at his own behest, although the

land is possessed commonly with the other brothers. The petitioner had all along been working in Bangalore and has now returned to the premises-in-question and has constructed his own structure, which has no connection whatsoever with the structure of his brothers.

Although, at the first blush, it transpires that the petitioner is residing in a separate structure, even though on the same land belonging to the father, as the other brothers, it cannot be brushed aside that the father is still the owner of the property.

The petitioner pleads an oral gift by the father in respect of the land to all his sons. However, such oral gift is not valid in law to effect a transfer recognized by law and, as such, there is nothing on record to show that the father's land was demarcated in separate portions and handed over to the petitioner and his other brothers.

Hence, as it stands today, the father is still the owner of the property where the petitioner and his other brothers, who are suffering allegations of theft, reside.

Thus, there is no scope of directing the WBSEDCL to give a new electricity connection to the petitioner without the petitioner clearing all dues standing as per the assessment made in connection

with the allegations of pilferage against the brothers of the petitioner.

Hence, WPA No. 2272 of 2022 is dismissed without any order as to costs.

However, in the event the petitioner clears off the dues as per the assessment made by the WBSEDCL in respect of alleged pilferage against his brothers, subject to subsequent right to recovery of such amount from the brothers by the petitioner, the WBSEDCL will give such new electricity connection in the name of the petitioner.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)