

S/L. 40.
September 19, 2022.
MNS.

WPA No. 2643 of 2022

Smt. Sashi Agarwal and another
Vs.
The State of West Bengal and others

Mr. Ashok Kumar Chowdhury

... for the petitioners.

Mr. Gourav Das,
Mr. Rajaram Banerjee

...for the State.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Mr. Arindam Das,
Mr. Atanu Banerjee,
Ms. Rumeli Sarkar

...for the respondent nos. 7a to 7c.

A copy of the police report filed in Court
today be kept on record.

Learned counsel for the petitioners
submits that although a similar previous writ
petition was withdrawn by the petitioners without
leave to sue afresh on the self-same cause of
action, subsequent thereto, the petitioners have
given another letter to the West Bengal State
Electricity Distribution Company Limited

(WBSEDCL) on December 21, 2020, thereby seeking new electricity connection and averring that amounts of Rs.20,007/- and Rs.8,000/- were deposited by the petitioners. It is, thus, contended that the said subsequent communication gave rise to a fresh cause of action.

It is contended by learned counsel for the petitioners that due to resistance put up by the private respondents/promoters, the WBSEDCL is not being able to give electricity connection to the petitioner.

Learned counsel appearing for the private respondents/promoters submits that the petitioners are not entitled to get electricity connection to the disputed property in any manner whatsoever. It is submitted that several litigations are pending between the petitioners and the private respondents/promoters before various courts of law and, consistently, the private respondents/promoters have categorically denied that the petitioners are in lawful occupation of the property.

Upon query of court, learned counsel for the private respondents/promoters hands over a copy of an application praying for acceptance of

the counter claim “issue” along with final hearing of the suit and/or provisionally accepting the counter claim pending in the said suit, that is, Title Suit No. 121 of 2015, as well as a communication dated July 5, 2019 made by the promoters/private respondents to the Station Master concerned of the WBSEDCL.

There is no contention as regards the petitioners being in possession or otherwise in the said application.

However, in the said letter dated July 5, 2019, it has been alleged that the petitioners herein are in “wrongful possession” at the property situated at Dashodran Checkpost, Rajarhat Main Road, Ashalata Apartment, Kolkata- 700 136.

Hence, it is evident that even as per the stand taken by the private respondents/promoters before the other legal forums, at the best the petitioners do not have any title to the property, since apparently no deed has been executed in their favour.

However, it is clearly admitted by the private respondents that the petitioners are in occupation of the premises. Although the private respondents/promoters have disputed the legality

of such occupation of the petitioners, it is well-settled that the lawfulness or otherwise of occupation cannot be a deterrent in the WBSEDCL giving electricity connection to a person, who is in settled occupation of a property. Since Section 43 of the Electricity Act, 2003 (2003 Act) guarantees such right to an occupant, who is in settled occupation and applies for fresh electricity connection in his own name, there cannot be any impediment to give electricity connection to the petitioners, of course, without creating any special right or equity in favour of the petitioners vis-à-vis the disputed property.

Accordingly, WPA 2643 of 2022 is disposed of by directing the WBSEDCL to give electricity connection to the petitioners in accordance with law, as expeditiously as possible, preferably within three weeks from date. If the WBSEDCL personnel face any obstruction from the end of the private respondent nos. 7a to 7c and/or their men and agents in so giving, it will be open to the personnel of the WBSEDCL to approach the respondent no. 8, that is, the Inspector-in-Charge, Baguiati Police Station for adequate police assistance in that regard.

If so approached, the respondent no. 8 shall act on the written communication of the learned Advocate for the petitioners, along with a server copy of this order, for the purpose of complying with the present order, without insisting upon prior production of a certified copy thereof.

It is reiterated, however, that mere giving of electricity connection to the petitioners shall not create or confer any special right and/or equity in their favour, if not otherwise available to them in law, and it will be open to the private respondents to raise their allegations and legal contentions before all the legal forums against the petitioner without being influenced in any manner by any of the observations made herein and/or merely by dint of the electricity connection being given to the petitioners.

There will be no order as to costs.

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.)