

AD. 22.
June 10, 2022.
MNS.

WPA No. 3451 of 2022

Sri Swapan Kumar Panda
Vs.
State of West Bengal and others

Mr. Shyamal Chakraborty,
Ms. Manju Jaiswal
...for the petitioner.

Ms. Suvasree Ghose
...for the WBSEDCL.

Mr. Rahul Sengupta
...for the State.

Mr. Mukteswar Maity
...for the private respondent.

Learned counsel for the petitioner contends that the private respondent no. 6, who is one of the co-sharers, filed a partition suit in respect of the property, in which the present writ petitioner has obtained an order of preemption within the contemplation of Section 4 of the Partition Act. Yet, the private respondent is resisting the Distribution Licensee, that is, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) personnel in giving a new connection to the petitioner at the premises.

Learned counsel appearing for the WBSEDCL corroborates the stand that due to obstruction

created by respondent no. 6, the connection could not be given to the petitioner.

Learned counsel appearing for the private respondent no. 6 submits that the property was demarcated and sold by one of the co-sharers.

However, it defeats logic as to how a demarcated separate portion and exclusive ownership of a portion of the joint property could be transferred by a co-sharer, such vendor herself/himself not having exclusive right, title or interest in any particular portion of the property prior to partition.

Moreover, in view of the respondent no. 6 having instituted a partition suit, which is still pending, there is no scope of the respondent no. 6 claiming that any particular portion of the property is demarcated and separate. In any event, since the petitioner is clearly a co-sharer of the property, that too, the holder of a major share of the property, there cannot be any impediment to the WBSEDCL giving such connection to the petitioner irrespective of the objection raised by the respondent no. 6, who is at best a co-owner.

In the facts of the case, WPA No. 3451 of 2022 is allowed, thereby directing the WBSEDCL to give electricity connection to the petitioner, subject to compliance of due formalities by the petitioner, as expeditiously as possible, preferably within one week

from date or the date of compliance of all formalities by the petitioner, whichever is later.

In the event any obstruction is created to the WBSEDCL personnel in giving such connection by the respondent no. 6 and her men and agents, the WBSEDCL personnel will be at liberty to approach the respondent no. 5, that is, the Officer-in-Charge, Contai Police Station, for adequate police assistance.

If so approached, the respondent no. 5 shall grant such police assistance at the cost of the petitioner and the police personnel shall also be at liberty to break open any padlock or other hindrance, if put up in the way of access of the WBSEDCL personnel for the purpose of giving such connection to the petitioner.

There will be no order as to costs.

The parties shall act on the written communication of the learned Advocate appearing for the petitioner, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof.

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.)