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14.09.2022
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 4576 of 2022

Dilip Kumar Dey
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Partha Pratim Roy,
Mr. Anirban Das,
Ms. Poulami Chakraborty
... for the petitioner

Mr. Sumit Ray
...for the WBSEDCL

Mr. Baidurya Ghosal,
Ms. Avipsha Dutta Roy,
Ms. Aatreyee Dutta
...for the respondent nos. 5, 6 & 7

Learned counsel appearing for the WBSEDCL files
a report pursuant to a previous direction of this Court,
which is kept on record.

It transpires from the said report that when
inspection was held, the WBSEDCL personnel
concerned came to the conclusion that no alternative
route is available to provide electricity connection to
the writ petitioner than over the plots of land which are
claimed to be owned by the private respondents.

Learned counsel for the petitioner submits that
the said route is the only path of ingress and egress
with regard to the property of the petitioner and the

petitioner has a right in equity equivalent to an easement right with regard to the said pathway.

Learned counsel appearing for the private respondents disputes such proposition and submits that the easement of necessity claimed by the petitioner is manufactured by the petitioner himself by virtue of covering up the entire property of the petitioner by a boundary wall, thereby closing the alternative pathway which was previously available for ingress and egress to the petitioner and the petitioner is seeking to carve out an alternative route over the private respondents' property.

Since the disputes raised by the parties tantamount to a private dispute, the factual appreciation of the materials placed by the parties and evidence given by them, at least on a *prima facie* footing, is required to assess whether the claim of the petitioner as regards the petitioner having an issue of necessity is correct or not.

Since the concerned District Magistrate is the appropriate authority to decide such dispute, W.P.A. No. 4576 of 2022 is disposed of by directing the District Magistrate, Mushidabad, that is, the respondent no. 2 herein, to decide and dispose of the dispute raised in the present writ petition between the petitioner and the private respondents with regard to giving electricity connection to the petitioner by the

WBSEDCL, upon giving adequate opportunity of hearing to all concerned, in accordance with law, as expeditiously as possible, preferably within eight weeks from the date of communication of this order to the District Magistrate.

The respondent no. 2 shall act on the server copy of this order, without insisting upon prior production of a certified copy thereof, for the purpose of compliance.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)