

36
26.04.2022
TN

WPA No.4778 of 2022

Prokash Chandra Mondal and another
Vs.
The State of West Bengal and others

Mr. Sabyasachi Chatterjee,
Mr. Debabrata Mondal

.... for the petitioners

Dr. Madhusudan Saha Roy

.... for the WBSEDCL

The grievance of the writ petitioners is that the Distribution Licensee has helped the private respondents to take the private respondents' electricity connection forcibly over the lands of the writ petitioners. Learned counsel for the writ petitioners places reliance on Annexure-P1 at page-12 of the writ petition to indicate that the lands-in-question have been recorded in the name of the petitioners, along with others.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (for short "the WBSEDCL"), however, contends that the grievance ventilated by the writ petitioners is to be heard by a competent civil court, since no specific proof of title of the petitioners has been established by

any cogent document. That apart, it is contended by the WBSEDCL that the electric pole, through which the connection of the private respondents as well as other consumers have been given, had existed all along. However, during the ‘*Amphan*’ calamity of 2020, all the electric lines in the locality were damaged severely, for which the same had to be newly laid by the WBSEDCL.

However, in view of the factual controversy as regards the title of the writ petitioners and since the writ court does not have jurisdiction to decide the title of the parties, coupled with the fact that the documents annexed to the writ petition by the writ petitioners, particularly Anneuxure-P1, is a *prima facie* proof of possession of the petitioners but the inference as regards title cannot be conclusively drawn therefrom, it would be inappropriate to pass a direction sitting under Article 226 of the Constitution of India as per the petitioners’ prayer.

However, as rightly submitted, in his usual fairness, by learned counsel appearing for the Distribution Licensee, the petitioners’ relief, if any at all, lies in compensation under Rule 3 of the Works of Licensees Rules, 2006 (hereinafter referred to as “the 2006 Rules”), subject to establishing the petitioners’

prima facie right, title and interest to the said property.

Hence, WPA No.4778 of 2022 is disposed of with liberty to the writ petitioners to approach the appropriate authority for compensation under Rule 3 of the 2006 Rules. If so approached, the said authority shall decide the issue upon giving an opportunity to the petitioners to produce all relevant documents and upon hearing all the affected parties and take appropriate steps in accordance with law subject to the petitioners establishing their *prima facie* right, title and interest to the lands-in-question and their entitlement to get compensation, if any damage has been done by the work concerned by the Distribution Licensee.

If so approached, the authority shall decide the issue as indicated above, as expeditiously as possible, preferably within six weeks from the date of such reference to the said authority.

Since no affidavits have been invited in the matter, it is deemed that the allegations made in the writ petition are not admitted.

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.)