

19
03.01.2022.
mb

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

W.P.A. No. 4085 of 2018

(Via video conference)

**M/s. Ganguly Rubber & Anr.
-vs.-
State of West Bengal & Ors.**

Mr. Rwitendra Banerjee
...for the petitioners

Ms. Bandana Basu
...for the WBSEDCL

Despite service, none appears for the private respondents. Affidavit-of-service filed in Court today be kept on record.

Leave is granted to file supplementary affidavit to the learned Advocate for the petitioners. Let the supplementary affidavit, which is filed today, be kept on record.

Learned counsel appearing for the petitioners contends that the petitioners are entitled to get a new commercial electric connection as per the petitioners' application at the premises-in-question, in view of the petitioners being co-owners in respect of the property and the passage, over which the connection is to be given, being a common passage.

However, due to resistance put up by the private respondents, the Distribution Company personnel are not being able to give such connection to the petitioners.

Learned counsel appearing for the Distribution Company submits that the petitioners are yet to produce a 'way leave certificate' from the other co-owners. That apart, learned counsel corroborates the contention of the petitioners that the private respondents put up resistance when the Distribution Company personnel went to the property-in-question for the purpose of necessary inspection for giving a new connection. It is further contended that the Distribution Company personnel were also heckled and sought to be assaulted by the private respondents and their men and agents, for which a complaint was duly lodged with the police.

In the present case, it is an admitted position that the private respondents are co-owners in respect of the property and common users of the passage, over which the electric connection is sought by the petitioners. Although there might be justification in the petitioners' contention that the petitioners have a right under Section 43 of the Electricity Act, 2003, to get a connection subject to compliance of all formalities, since a specific dispute has been raised by the private respondents with regard to such connection being given,

as per WBERC Regulations, the Distribution Company ought to have referred the matter to the concerned District Magistrate in order to decide the objections raised by the private respondents.

It also appears from Annexure P-3, at page 21 of the writ petition, that the Distribution Company requested the petitioners to arrange for demarcation of the property and submit a way leave certificate for further proceeding, subsequent to which the Distribution Company personnel went to give connection, but without any result.

In such view of the matter, the purpose of justice would be sub-served in the event the objections raised by the private respondents are decided expeditiously by the concerned District Magistrate.

Accordingly, W.P.A. No. 4085 of 2018 is disposed of by directing the Distribution Company to refer the objections, raised by the private respondents with regard to a new commercial electric connection being taken by the petitioners, to the concerned District Magistrate having jurisdiction in the matter within a week from date.

If so referred, the District Magistrate shall decide such objections upon giving appropriate opportunity of hearing to all the interested parties as expeditiously as possible, positively within four weeks from the reference being made and shall intimate the

decision of the District Magistrate to the parties thereafter.

The Distribution Company shall, subject to the objections being decided in favour of the petitioners, if at all, give a new connection to the petitioners at the earliest thereafter as possible, preferably within a week after the decision is communicated to the Distribution Company and upon compliance of all due formalities.

It will be open to the Distribution Company personnel to approach the local police authorities in the event any further obstruction is raised by the private respondents and their men and agents at the time of such connection being given.

If such an approach is made, the local police station will grant appropriate police assistance to the Distribution Company personnel, at the cost of 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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)