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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5171 of 2022

Sajal Biswas & Anr.
-vs.-
The State of West Bengal & Ors.

Mr. Chirantan Sarkar
...for the petitioners

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata
...for the State

Mr. Debjit Mukherjee
...for the WBSEDCL

Learned counsel appearing for the petitioners submits that, despite a previous order having been passed by this Court on December 13, 2021 in WPA 15104 of 2021, inter alia directing the Distribution Licensee to decide the issue raised by the writ petitioner as regards transformers and electric poles having been erected on the petitioners' land, the Distribution Licensee has not yet taken any meaningful step in the matter.

Learned counsel places the communication dated December 22, 2021, annexed at page 46 of the writ petition, from the end of the Distribution Licensee merely indicating that the BL & LRO, Balagarh Block, is

to carry out verification at the spot whether the transformer actually lies in the suit property.

Learned counsel appearing for the Distribution Licensee submits that, prior to the filing of the writ petition, the BL & LRO has sent a purported communication, which is claimed to be a report regarding verification of the land-in-question, which is vague in nature. A copy of the said communication dated February 07, 2022 is handed up by learned counsel appearing for the Distribution Licensee in Court today. Let the same be kept on record.

It is, however, seen from the said report that learned counsel appearing for the Distribution Licensee rightly contended that the BL & LRO has merely stated that the plot is private in nature and because no sketch map was prepared as per mouja map found to be attached with the writ petition, the extent of encroachment could not be assessed. However, such report is as vague as can be.

Learned counsel appearing for the State assures the Court that the BL & LRO shall file a proper report on the issue as to whether any installation of equipment has been made on the land of the petitioners, upon perusing all necessary documents and asking for relevant documents from the petitioners, if necessary.

At this juncture, learned counsel appearing for the Distribution Licensee rightly submits that the

District Magistrate is the appropriate authority for deciding on the issue raised by the writ petition.

In fact, it is seen that the BL & LRO's report dated February 07, 2022 is absolutely sketchy and does not reveal anything pertinent.

Hence, W.P.A. No. 5171 of 2022 is disposed of by directing the respondent no. 4, that is, the BL & LRO, Balagarh Block, Ahamodpur, Patuligram, Hooghly to hold a fresh enquiry upon notice to the concerned parties, including the petitioners and the Distribution Licensee, in order to ascertain as to whether the transformers and the electric poles-in-question have been installed on the property of the petitioners. For the said purpose, the BL & LRO shall give adequate opportunity of hearing to the concerned parties and, if necessary, shall ask the petitioners to produce sufficient documents to establish the petitioners' title over the property and the identity of the said property. Upon holding such enquiry afresh, the respondent no. 4 shall hand over a copy of his consequential report to the petitioners. The proceedings shall be completed within four weeks from date by the BL & LRO, that is, the respondent no. 4 herein and copies of the report shall be sent immediately thereafter to the interested parties.

Upon obtaining a copy of such report of the BL & LRO, the petitioners shall be at liberty to refer the matter to the concerned District Magistrate for

resolution of the issue as regards whether the petitioners' rights have been infringed by the WBSEDCL by installing transformer and electric poles over the petitioners' property and, if so, whether there is any alternative route for installing such equipment and/or in the event such alternative route is not accessible or available, as to whether any compensation is payable to the petitioners for the damage, if any, caused to the petitioners' land for the purpose of installing such transformer and electricity poles.

It is expected that the District Magistrate shall decide such dispute as expeditiously as possible, preferably within two months from the date of reference by the petitioners to the concerned District Magistrate.

It is made clear that the questions which are to be referred to the District Magistrate, as indicated above, has not been entered into on merits by this Court and it will be open to the District Magistrate, upon giving adequate opportunity of hearing to all concerned parties, to come to a decision in that regard in accordance with law.

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.)