

AD. 34.
May 10, 2022.
MNS.

WPA No. 6882 of 2022

Smt Archana Sarkar and another
Vs.
The State of West Bengal and others

Mr. Prosenjit Debnath,
Ms. Punam Basu

...for the petitioners.

Mr. Ranjit Rajak

...for the State.

Mr. Mihir Kundu

...for the WBSEDCL.

Mr. Samiran Mondal,
Mr. Abhinaba Dan

...for the respondent no. 6.

Affidavit-of-service filed in Court today be kept
on record.

Learned counsel for the petitioners contends that, pursuant to a previous direction of this Court, the concerned Magistrate decided the issue of objection taken by neighbourhood people to the shifting of the LTOH line, which runs adjacent to the petitioners' house, creating hazard for the petitioners. However, the Block Development Officer has not done enough to comply with such specific direction of the Magistrate dated February 8, 2022 to maintain law and order during the entire work of shifting of the LTOH line adjacent to the house of the petitioners over the land given by the petitioners.

Learned counsel for the West Bengal State Electricity Distribution Company Limited (in short WBSEDCL) submits that the WBSEDCL has made endeavour to do so but has been resisted by the neighbourhood people from complying with such order. In fact, it is submitted that on two separate occasions such efforts were taken by the WBSEDCL personnel.

Learned counsel appearing for the respondent no. 6, that is, the Panchayat Pradhan of the locality, submits that there was a mass allegation regarding the illegality of the construction being made by the writ petitioners at their alleged premises, contrary to the provisions of law. As such, it is submitted that the entire plea of shifting the electricity line from the existing position has been made to justify such illegal construction of the petitioners and was legitimately resisted by the local people. Moreover, it is contended, the proposed shifting may block a public road.

It is further submitted that despite a notice being served on the writ petitioners from the end of the Panchayat for resolution of the issue regarding the complaint lodged against such illegal construction of the residential-cum-commercial building of the petitioners, the petitioner abstained from hearing, for which an adverse inference ought to be drawn against the petitioners.

It is submitted by learned counsel appearing for the respondent no. 6 as well as his counterpart appearing for the petitioners that a civil suit is pending in connection with the said property.

Learned counsel for the petitioners, however, submits that the said suit is pending at the instance of the petitioners themselves against the adjoining owner. It is also contended that, in connection with the said suit, an injunction order was passed in favour of the petitioners against their adjacent owner and the same does not concern or affect the fate or outcome of the Magistrate's order in any manner.

Upon hearing the learned Advocates for the parties it is seen that the Panchayat and the local people grew wiser as regards the purported illegality of the petitioners' construction only after the order of the Magistrate was passed. The Pradhan was mobilised by the local people by submitting a joint complaint, which was already specifically decided by the District Magistrate vide order no. 2 dated February 8, 2022 (annexed at page- 36 of the writ petition) pursuant to a direction of this Court.

After such decision having attained finality in the absence of any challenge thereto, there is no scope for the Panchayat Pradhan or the neighbourhood people to reopen the issue and take a further objection to the shifting of the LTOH line from adjacent to the petitioners' premises. As regards the

question of the purported illegality of the construction being made by the petitioners, such allegation has no conceivable nexus with the issue at hand and the shifting was specifically directed by the District Magistrate and stands unchallenged till date.

Needless to say, this Court is not sitting in judgement over the complaints as regards the alleged illegality of the construction of the petitioners and it will be open to all concerned to take adequate measures in respect of such complaint before the appropriate forum. However, such issue does not have any connection, even remotely, with the present writ petition, in view of the specific direction of the District Magistrate dated February 8, 2022.

It is unfortunate that the Officer-in-charge of the local Police Station, through counsel for the State, has filed a report where the Officer-in-Charge has sanctimoniously advised that the matter is absolutely civil in nature.

However, such advice is entirely unwarranted and unsolicited. Irrespective of the nature of the dispute now raised against the petitioners, the order dated February 8, 2022, which is annexed at page 36 of the writ petition, still remains in force and has to be executed immediately by the concerned Block Development Officer as well as the police authorities.

In such view of the matter, WPA No. 6882 of 2022 is disposed of by directing the respondent nos.

5 and 7, that is, the Block Development Officer, Balagarh, Balagarh Administrative Block, and the Officer-in-Charge, Balagarh Police Station respectively, to ensure that the order of the District Magistrate, Hooghly dated February 8, 2022 passed in compliance with the order dated December 21, 2021 passed by this Court in WPA No. 19446 of 2021 is implemented immediately, but positively within an outer limit of three weeks from date. The respondent nos. 5 and 7 shall provide adequate police protection to the WBSEDCL authorities to ensure compliance of the said order of the District Magistrate by shifting the LTOH line adjacent to the house of the petitioners over the land provided by the petitioners.

It is made clear that in the event any attempt is made to frustrate the direction of the District Magistrate and/or this order, it will be open to the writ petitioners and/or the WBSEDCL authorities to approach this Court in the contempt jurisdiction for taking adequate measures in that regard.

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

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.)