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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 7051 of 2022

Ujjal Kumar Saha

-vs.-

West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. B.N. Roy,
Mr. Soupal Chatterjee,
Mr. Anupam Das
...for the petitioner

Mr. Amitabh Shukla
...for the WBSEDCL

Mr. Narayan Chandra Bhattacharya,
Mr. Sougata Mitra
...for the State

Learned counsel appearing for the petitioner submits that, pursuant to a direction of this Court dated December 14, 2021, the concerned District Magistrate considered the objection of the petitioner in giving a new electricity connection to the private respondent, and, thereafter, merely by placing reliance on the sale deed of the private respondent/applicant, held in favour of giving such a connection to the said applicant.

It is submitted that the present petitioner purchased his property, through which such connection has been given to the detriment of the petitioner, prior

to the purchase by the private respondent of his property. Moreover, there is no mention of the passage-in-question, used for giving such connection to the private respondent, as being a '*Kuccha Rasta*', as indicated by the District Magistrate. The relevant deed in that respect was not considered by the Magistrate at all. It is further submitted that there is practical difficulty in giving a connection to the private respondent, since the said connection has been taken over the land of the petitioner, thereby creating inconvenience to the petitioner.

Learned counsel appearing for the Distribution Licensee submits, as corroborated by learned counsel appearing for the petitioner, that, in the meantime, electricity connection has already been given to the private respondent pursuant to the order of the District Magistrate.

Despite service, none appears on behalf of the private respondent.

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

As such, there is no other option but to proceed with the hearing of the matter in the absence of the private respondent.

Even a cursory perusal of the impugned order of the District Magistrate, Malda, dated January 27, 2022, indicates that the District Magistrate considered

only the purchase deed of the private respondent while coming to the conclusion that such deed mentioned the passage-in-question as a '*Kuccha Rasta*'. However, the Magistrate did not advert to any document of the petitioner in respect of the rights of the petitioner over the property, through which such connection has been taken.

Moreover, the impugned order dated January 27, 2022 is cryptic insofar as adequate reasons for passing the same have not been recorded therein.

In such view of the matter, W.P.A. No. 7051 of 2022 is disposed of by remanding the matter to the District Magistrate, Malda for re-hearing the interested parties, including the petitioner and the private respondent, and, upon giving adequate opportunity to both sides to produce their respective documents and upon holding a field enquiry and/or seeking a report with regard to the ground reality of the locale from the concerned Block Land & Land Reforms Officer, to come to a reasoned decision as regards the objection raised by the petitioner.

In the event the Magistrate holds against the feasibility of giving electricity connection to the private respondent over the said route, it will be open to the present petitioner to apply to the WBSEDCL for disconnection of the electricity line of the private respondent.

If so filed, the WBSEDCL shall decide the issue in accordance with law upon giving opportunity of representation to the private respondent as well as the petitioner.

It is made clear that the respective rights and contentions of the private parties have not been gone into by this Court on merits and it will be open to the District Magistrate, in the light of the above observations, to arrive at a fresh decision upon giving such opportunity of hearing, as indicated above, to the parties.

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.)