

AD. 20.
May 17, 2022.
MNS.

WPA No. 7815 of 2022

Sk. Abdur Rashid
Vs.
The State of West Bengal and others

Mr. Younush Mondal

...for the petitioner.

Mr. Jahar Datta,
Mr. Bipin Ghosh

...for the State.

Mr. Arunava Ganguly,
Mr. Piyas Choudhury

...for the respondent nos. 7 to 9.

Mr. Jayanta Basu

...for the WBSEDCL.

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

Learned counsel for the petitioner submits that
the petitioner has applied for shifting his shallow
tube-well from an existing plot to a different land.
However, the West Bengal State Electricity
Distribution Company Limited (in short ,WBSEDCL)
is sitting tight over the matter.

Learned counsel appearing for the WBSEDCL
submits that in terms of the West Bengal Electricity
Regulatory Commission (WBERC) Resolution no. 46,
Clause 6, an appropriate application has to be made
and a certificate has to be obtained from the West

Bengal Groundwater Resources Authority, Pandua, in view of the land-in-question being demarcated as a critical zone.

Moreover, it is submitted that the private respondent nos. 7 to 9, who claim to be the present owners, have also raised objection in writing to the petitioner as regards shifting such shallow tube-well.

Learned counsel appearing for the respondent nos. 7 to 9 submits that, irrespective of the petitioner relying on a purported consent given by their predecessor-in-interest, namely, late Sirajul Haque, after the demise of late Sirajul Haque, the private respondent nos. 7 to 9 become co-owners of the lands, both from which the connection is required to be shifted and the land where it is sought to be shifted.

As such, it is submitted that the respondent nos. 7 to 9 have a right to object to the transfer of the said electricity connection.

Learned counsel for the petitioner, however, disputes the argument of the private respondent nos. 7 to 9 insofar as the co-ownership of the private respondents in respect of the land, to which the connection is sought to be shifted, is concerned.

It is submitted that the writ petitioner is the exclusive owner thereof.

Be that as it may, neither the WBSEDCL nor the writ court can decide on the respective

contentions of the petitioner and the private respondents with regard to the right, title and interest of the private parties to the properties-in-dispute. Since a specific objection, in writing, has been taken by the private respondent nos. 7 to 9, who claim to be co-owners of the shallow tube-well as well as the land, it would only be appropriate if the District Magistrate, who is the competent authority under the Regulations, to decide such objection and come to a reasoned finding thereon.

Accordingly, WPA 7815 of 2022 is disposed of by directing the WBSUEDCL to refer the objection raised by the private respondent nos. 7 to 9, to the petitioner's application for shifting of electricity connection in respect of the shallow tube-well-in-question, to the concerned District Magistrate, as expeditiously as possible, preferably within a week from date.

Upon such reference being made, the said Magistrate shall decide the dispute between the parties in accordance with law, upon giving adequate opportunity of hearing to the concerned parties, as expeditiously thereafter as possible, preferably within six weeks from the date of such reference.

It is made clear that, subject to the decision of the District Magistrate, it will be open to the petitioner to seek the shifting as proposed, in the event the District Magistrate's decision goes in favour of such

shifting, only subject to compliance of all formalities as stipulated by law, including the compliance of Clause 6 of Regulation 46 as framed by the WBERC, taking into consideration the production of appropriate certificate of the West Bengal Groundwater Resources Authority, Pandua, in respect of the plots-in-question.

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.)