

27.06.2022
Item No. 03
Court No.32
Avijit Mitra

**FMA 2078 of 2015
with
IA No. CAN 3 of 2022**

**Pradip Kumar Sha
Versus
The Chairman, West Bengal Electricity
Distribution Company Limited & ors.**

Mr. Sankar Prashad Dalapati,
Mr. Satyajit Mahata,
Mr. Safik Dewan,
Ms. Tanusree Ghosh
...for the applicant

Mr. Rudranil De,
Mr. Ziaul Haque,
Mr. Himadri Kumar Mahata
....for the appellant/writ petitioner
Mr. Srijan Nayek,
Mr. Debanjan Mukherjee
....for the WBSEDCL.

Records reveal that the writ petition being W.P. 16015 (W) of 2014 was dismissed by an order dated 24th February, 2015. The said order has been set aside in the appeal being FMA 2078 of 2015 on 10th June, 2022. In connection with the said appeal, now an application has been filed by one Pradip Kumar Sha *inter alia* praying for recalling of the order dated 10th June, 2022.

Mr. Dalapati, learned advocate appearing for the applicant submits that the applicant filed an application for addition of party in the writ petition. There is no order on record that the said application was allowed. However, the applicant in the said application being Pradip Kumar Sha

was granted an opportunity of hearing, as would be explicit from the order dated 24th February, 2015. As such, the applicant ought to have been granted an opportunity of hearing when the appeal was finally heard and disposed of by the order dated 10th June, 2022.

Indisputably, the applicant was not a formal party to the writ petition and consequently he was also not a party to the present appeal. Irrespective of such defects, we invited Mr. Dalapati to advance his arguments on the merits of the matter.

He argues that the appellant/writ petitioner obtained the order dated 10th June, 2022 by suppressing material facts. The veracity of the documents annexed to the writ petition is also doubtful.

Mr. Dalapati submits that the applicant is the owner of the concerned plot no.4041 and he is enjoying electricity connection through an electric meter installed in his name in the said plot of land. The appellant is neither the owner nor the occupier of the said plot of land and as such, the judgment delivered in the case of *Abhimanyu Mazumder Vs. The Superintending Engineer*, reported in *AIR 2011 Cal 64* has no manner of application in the present case and in view thereof the order dated 10th June, 2022 needs to be recalled.

Mr. De, learned advocate appearing for the appellant disputes such contention of Mr. Dalapati and submits that the concerned land is a vested land and he is occupying the same. He submitted an application to the competent

authority for grant of long term settlement in respect of the said land and such application is still pending.

Answering our query Mr. Mukherjee, learned advocate appearing for the WBSEDCL submits that in terms of the order passed on 10th June, 2022 steps have already been taken to grant new electricity connection to the appellant upon installing a new electric meter on the concerned plot of land.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that there is a dispute as regards ownership and possession of the concerned plot of land between the applicant herein and the appellant. We have not gone into such dispute in the present appeal. We have made it clear in the order dated 10th June, 2022 that the grant of such electricity connection would not create any right or equity in favour of the appellant over the concerned plot of land. In view thereof, we do not find any reason to recall the order dated 10th June, 2022 and the present recalling application being IA No. CAN 3 of 2022 is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)