

AD. 10.
June 22, 2022.
MNS.

WPA No. 10578 of 2022

Kartick Biswas
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Aniruddha Chatterjee,
Mr. Tanmoy Mukherjee,
Mr. Amal Kumar Saha,
Mr. Soumyadip Panda

...for the petitioner.

Mr. Sourav Chaudhuri

...for the WBSEDCL.

Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta

...for the respondent no. 3.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal

...for the proforma respondent no. 4.

Learned counsel for the petitioner submits that, due to resistance and objection having been raised by the respondent no. 3, the Distribution Licensee is not being able to give a new electricity connection pursuant to the application of the petitioner.

Learned counsel appearing for the Distribution Licensee contends that written objection has been submitted by respondent no. 3 with regard to the electricity connection being given to the petitioner.

It is further submitted that the fact of such objection has already been communicated to the petitioner.

Learned counsel appearing for the proforma respondent no. 4, the landlady of the petitioner, supports the contentions of the petitioner.

Learned counsel for the respondent no. 3 controverts such contentions of the petitioner and submits that a suit has been filed by the respondent no. 3 in respect of the disputed property, in which an injunction order has been passed.

That apart, it is submitted that the petitioner is not in physical possession of the premises-in-question, which is at present under lock and key.

Learned counsel for the respondent no. 3 further submits that the electricity meter in respect of the premises, standing in the name of the erstwhile tenant, has already been surrendered and hands over a photocopy of a purported electricity bill, which is kept on record, indicating the same.

It is submitted that in view of the respondent no. 3 having acquired a valuable right in respect of the property by virtue of an agreement of respondent no. 3 with the erstwhile landlady of the petitioner, the petitioner is not entitled to get an electricity connection to substantiate the petitioner's alleged possession.

From the submissions of the parties, it transpires that proforma respondent no. 4, the landlady, supports the case of the petitioner insofar as the tenancy being given to the petitioner is concerned. The tenancy agreement annexed to the writ petition corroborates such stand inasmuch as the petitioner is in possession of the premises in the capacity of a tenant.

The purported surrender of a previous electricity meter by the landlady does not in any manner help the contention of the respondent no. 3 since the said surrender of the tenancy indicates that the possession was handed over to someone else than the petitioner as per the tenancy agreement.

That apart, the petitioner is admittedly not a party to the suit instituted by the respondent no. 3. Moreover, the injunction order passed therein merely restrains the defendant, that is, the landlady, to alter the possession, nature and character of the property. Even such an injunction order does not create any impediment to the taking of an electricity connection to the premises, since such connection *ipso facto* does tantamount, by itself, to disturbing possession. It is evident from the document produced before this court that the respondent no. 3 has admitted that the respondent no. 3 is not in possession of the premises and that, allegedly in violation of the injunction order,

a third party possession has been created in favour of Kartick Biswas, the writ petitioner.

As such, although the capacity in which the petitioner is residing in the property-in-question has been disputed, it is for the civil court to decide whether the petitioner is a trespasser or has a valid right, title and interest as a tenant to possess the suit property.

However, in view of the petitioner being admittedly in settled occupation of the property, the petitioner is entitled to get electricity connection under Section 43 of the Electricity Act, 2003 (2003 Act), irrespective of the objection now being raised by respondent no. 3.

In such view of the matter, WPA No. 10578 of 2022 is allowed, thereby directing the Distribution Licensee to give an electricity connection to the petitioner, subject to compliance of all formalities by the petitioner, as expeditiously as possible, preferably within a fortnight from date.

In the event the personnel of the Distribution Licensee face any obstruction from the respondent no. 3 and/or his men and agents in doing so, it will be open to the said personnel to approach the local police authorities for adequate police assistance. If so approached, the Officer-in-Charge/Inspector-in-Charge of the local police station shall provide such assistance at the cost of the petitioner for the limited

purpose of ensuring that an electricity connection is given to the petitioner.

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.)