

29.06.2022

25
Court No.1
PA(BS)

MAT 882 of 2022
With
CAN 1 of 2022

Parbati Jana
Vs.
The State of West Bengal & Ors.

Mr. Mukteswar Maity,
Ms. Manika Sarkar, Advocates

...for the petitioner

Mr. Shyamal Chakrabarty,
Mr. Debajyoti Mondal, Advocates

... for the private respondent

By this appeal, correctness of the order of the Learned Single judge dated 10.06.2022 passed in W.P.A. No. 3451 of 2022 (Sri Swapan Kumar Panda -versus- State of West Bengal & Ors.) has been questioned by the appellant.

Learned Counsel for the appellant submits that as the appellant/respondent no.6 to the writ petition is one of the co-owners of the property in question and the writ petitioner is forcing the appellant/respondent no.6 to part with a portion of the property which is in his possession, for an electric connection to be supplied by the West Bengal State Electricity Distribution Company Limited (WBSEDCL).

Learned Counsel appearing for the writ petitioner/respondent no. 6 in the appeal submits that the appellant is resisting the West Bengal State

Electricity Distribution Company Limited (WBSEDCL) personnel from giving a new connection to the writ petitioner.

It was contended by the learned counsel appearing for the WBSEDCL that the connection could not be given to the writ petitioner due to obstruction created by the appellant therein. On the other hand, the learned counsel appearing for the appellant replied that the property was demarcated and sold by one of the co-sharers from whom she has purchased the property and as such a partition suit is still pending before the lower court.

Having heard the learned counsel for the parties, on perusal of the records and the order passed by the Learned Single Judge, this Court is of the view that the Learned Single Judge has rightly held that it defeats logic as to how a demarcated separate portion and exclusive ownership of a portion of the joint property could be transferred by a co-sharer, such vendor himself not having exclusive right, title or interest in any particular portion of the property prior to partition. In light of the facts before him, the learned single Judge allowed WPA No. 3451 of 2022 directing WBSEDCL to give electricity connection to the writ petitioner, subject to compliance of due formalities by the writ petitioner as soon as possible.

There was no scope of the appellant therein claiming that any particular portion of the property was

demarcated and separate in view of the appellant having instituted a partition suit which is still pending. There ought not be any impediment to the WBSEDCL giving connection to the writ petitioner irrespective of the objection raised by the appellant, who at best was a co-owner and especially when the writ petitioner is a major co-sharer of the property.

As held by the Learned Single Judge, WBSEDCL personnel are at liberty to approach the respondent no. 5 therein i.e., the Officer-in-charge, Contai Police Station, for adequate police assistance in case any obstruction is created to the WBSEDCL personnel in giving the electricity connection by the appellant and her men and agents.

Hence, this Court finds no reason to interfere in the order of the Learned Single Judge.

For the foregoing reasons, the appeal is found to be devoid of any merit which is accordingly dismissed. All pending applications stand disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)