

AD. 35.
June 29, 2022.
MNS.

WPA No. 10771 of 2022

Abhishek Pramanik
Vs.
The WBSEDCL and others

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder
...for the petitioner.

Mr. Sujit Sankar Koley
...for the WBSEDCL.

Mr. Debasish Saha,
Ms. Dipika Banu
...for the private respondent.

At the outset, learned counsel for the private respondent seeks an adjournment.

Learned counsel for the petitioner vehemently opposes such prayer for adjournment and submits that on June 21, 2022, when the matter is called on for hearing, an adjournment had been sought on behalf of learned counsel for the private respondent.

It is submitted that the petitioner is living at the mercy of the private respondent, who is the landlord, since the petitioner has to enjoy electricity connection from the meter of the private respondent.

It is further submitted that the said connection has been severed in the meantime.

As such, the prayer for adjournment is refused and the matter is taken up for hearing today.

Learned counsel for the petitioner contends that in view of the pendency of an eviction suit at the behest of the private respondent against the petitioner, it is an admitted position that the petitioner is in possession of the premises. That apart, learned counsel places reliance on Annexure – P/1 at page 9 of the writ petition, which is contended to be a rent receipt granted by the private respondent to the petitioner.

Learned counsel appearing for the petitioner, as such, argues that the petitioner ought to be given a new electricity connection in the petitioner's name independently by the West Bengal State Electricity Distribution Company Limited (WBSEDCL).

Learned counsel for the WBSEDCL submits that the petitioner has failed to produce any *prima facie* document in respect of the petitioner's right and/or possession in respect of the premises where the connection has been sought.

Learned counsel submits that the WBSEDCL refused to give such connection on such score alone.

Learned counsel for the private respondent, at this juncture, argues that the letting out of a cooperative society property to a third party is barred within the contemplation of the West Bengal Cooperative Societies Act.

It is further denied by the private respondent that the petitioner is a tenant under the private

respondent and/or that the petitioner is in possession of the premises.

In fact, learned counsel for the private respondent submits that although an eviction suit was initially filed by the private respondent, subsequently, the possession of the property has vested in the private respondent.

Upon hearing learned counsel for the parties it transpires that, admittedly, an eviction suit is pending even at the present moment at the behest by the private respondent against the petitioner. Such pendency *ipso facto* shows the admitted position that the petitioner is in occupation of the premises. The contention of learned counsel for the private respondent, that subsequently possession has been delivered to the private respondent, does not stand on any solid footing whatsoever, more so since the eviction suit has not been withdrawn till date.

As such, it does not lie in the mouth of the private respondent to deny the occupation of the premises by the petitioner.

Since the private respondent himself has admitted in the plaint of the eviction suit that the petitioner is in occupation of the premises, unless a decree is passed in the eviction suit in favour of the private respondent against the petitioner by the competent civil court, the private respondent cannot

blow hot and cold at the same time and claim that possession lies with the private respondent.

However, there is justification in the submission of learned counsel for the WBSEDCL insofar as the hands of the Distribution Licensee are tied unless the applicant for a new connection produces some documents to *prima facie* show the possession and right, title or interest of the applicant to the property-in-question.

Hence, WPA No. 10771 of 2022 is disposed of by directing the petitioner to produce relevant documents in respect of the petitioner's right in respect of the property where electricity connection has been sought, as well as occupation in respect thereof, before the WBSEDCL. Upon such documents being produced, the WBSEDCL shall immediately process the application of the petitioner and, upon compliance of all due formalities by the petitioner, shall give electricity connection in the name of the petitioner at the premises-in-question within a fortnight from the date of compliance of all due formalities by the petitioner.

However, it is made clear that in the event the personnel of the WBSEDCL are obstructed in any manner by the private respondent and/or his men and agents in giving such connection to the petitioner, it will be open to the WBSEDCL personnel to approach the respondent no. 3, the Officer-in-

Charge, Bidhannagar South Police Station, for police assistance in that regard.

If so approached, the respondent no. 3 shall grant such assistance, at the cost of the petitioner, for the purpose of giving electricity connection to the petitioner by the WBSEDCL personnel and if necessary shall remove any padlock and/or any other hindrance found to the access of the WBSEDCL personnel for giving the electricity connection to the petitioner.

It is further made clear that the electricity connection, if and when given in favour of the petitioner, shall not, by itself, confer any special right and/or equity in favour of the petitioner and/or prejudice the rights and contentions of the petitioner as well as the private respondent in the pending eviction suit. It will be open to the Civil Court taking up such matters to independently decide the suit on all issues without being influenced in any manner by any of the observations made herein.

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.)