

W.P.A. No. 9558 of 2016

Nil Kamal Sarkar
Vs.
State of West Bengal & Ors.

Mr. Kajal Mukherjee,
Mr. Partha Chakraborty,
Mr. Bikash Chakraborty
... for the petitioner

Mr. Debjit Mukherjee,
Mr. Kaustav Bhattacharyya
... for the WBSEDCL

Learned counsel appearing for the petitioner, who is an occupant in respect of the premises-in-question, contends that due to objection raised by the private respondent, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is not giving electricity connection to the petitioner on the pretext of pendency of a litigation and “legal obligation”.

It is submitted that although the private respondent obtained an *ex parte* decree of eviction against the petitioner, an application under Order IX Rule 13 of the Code of Civil Procedure, registered as a miscellaneous case, is at present pending at the behest of the petitioner on such score and the same is on the verge of commencement of hearing.

Learned counsel appearing for the WBSEDCL submits that in view of the eviction decree as well as the objection raised by the private respondent, the WBSEDCL was not in a position to give electricity connection to the petitioner. Apart from that, however, the WBSEDCL does not have any objection in principle to give such connection to the petitioner, subject to compliance of all formalities.

Despite substantial notice, as recorded in the previous order dated November 28, 2022, the private respondent remains unrepresented when the matter is taken up for hearing even today.

As such, the writ petition is being decided *ex parte* against the private respondent.

In view of the above circumstances, W.P.A. No. 9558 of 2016 is allowed, thereby directing the WBSEDCL to give a new electricity connection to the petitioner at the premises-in-question, subject to compliance of all formalities by the petitioner, within a fortnight from the date of compliance of such formalities by the petitioner or the passing of this order, whichever is later.

In the event the WBSEDCL personnel are resisted by the private respondent and/or his men and agents from giving such connection to the petitioner and/or holding necessary inspection therefor, it will be open to

the WBSEDCL personnel to approach the nearest police station for police assistance in that regard.

If so approached, the Inspector-in-Charge/Officer-in-Charge, as applicable, of the concerned police station shall give such assistance to the WBSEDCL personnel at the cost of the petitioner.

In the event any padlock or hindrance is put up by the private respondent and/or his men and agents to resist the WBSEDCL personnel in giving such connection to the petitioner, it will be open to the police personnel to remove such hindrance for the limited purpose indicated above.

It is, however, made clear that mere giving of electricity connection to the petitioner shall not create, by itself, any special right or equity in favour of the petitioner, if the petitioner is otherwise not entitled to such right or equity.

It will be open to the parties to raise their respective issues before the Civil Court in connection with Miscellaneous Case and/or any other pending proceeding, without the Court being influenced in any manner on merits 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 of all necessary formalities.

Learned counsel for the petitioner shall furnish a photocopy of the order sheet of the pending Misc. Case under Order IX Rule 13 of the Code of Civil Procedure for the records.

The WBSEDCL shall regularize the appointment of Mr. Kaustav Bhattacharyya, learned counsel appearing with Mr. Debjit Mukherjee on behalf of the WBSEDCL, for the purpose of representing the WBSEDCL in this matter.

(Sabyasachi Bhattacharyya, J.)