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03.01.2022
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WPA No.13362 of 2021

Rabisankar Jana
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

(Via Video Conference)

Mr. Sukanta Das

.... for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra

.... for the WBSEDCL

Mr. Debasish Kundu,
Mr. Souma Subhra Roy

.... for the private respondent nos.5 and 6

Learned counsel for the petitioner argues that the Distribution Company has refused to give a new electric connection at the property-in-question in the name of the petitioner on two-fold grounds – first, that the consent of the landlord was required to be obtained and secondly, the industrial connection standing in the name of the petitioner’s brother Paresh Chandra Jana carried an outstanding due of Rs.22,069/- and the petitioner had a nexus with the said brother inasmuch as the electric connection from the defaulting meter was being used so long by the petitioner himself.

It is submitted that despite refusal of a prayer for ad interim injunction by the petitioner by a competent civil court, such order of refusal is under challenge before an appellate court and has no direct bearing upon the right of the petitioner to get an electric connection at the premises.

Learned counsel for the private respondents specifically controverts such contention and argues that the writ petition is not maintainable in this court at all, in view of the specific finding of the civil court that the petitioner is not in possession of the premises where the connection has been sought. It is further argued that there is no scope of any consent being given by the private respondents-landlords in view of the petitioner having lodged several criminal complaints against the private respondents as well.

Learned counsel for the Distribution Company submits that, in the event the new connection is sought by the petitioner, the petitioner has to clear all outstanding dues and comply with the necessary formalities in that regard.

Upon considering the materials on record and the contentions of learned counsel for the parties, it is evident that Section 43 of the Electricity Act confers right on the petitioner to have an electric connection at premises of his choice. Of course, such right is not

unfettered and is subject to compliance of all formalities by the petitioner.

In the present case, the Distribution Company has disclosed a clear nexus between the petitioner and the defaulting electric meter insofar as the petitioner has allegedly been using the said connection and has outstanding dues to the extent of Rs.22,069/-. In the absence of any challenge to the assessment made by the Distribution Company by way of an appeal, the said arrears stand final.

However, the findings of the civil court, if any, in respect of the possession of the suit premises are not final and binding on the parties, since such finding was rendered while deciding upon an ad interim prayer for injunction by the petitioner. Such finding is not even binding at the final stage of the injunction application and/or the suit. In any event, there is no scope of going into the merits of such findings of the trial court, since the matter is already sub judice before an appellate court.

Be that as it may, the insistence of the Distribution Company on the consent of the landlord is redundant in view of the wide scope of Section 43 of the Electricity Act, which confers the right on the petitioner to have an electric connection at the

premises in his own name, subject to clearance of all dues and compliance of formalities.

It may be mentioned here that the averments of the petitioner regarding possession made in connection with the pending civil litigation have no direct bearing on the present decision and, as such, need not be gone into.

In such view of the matter, WPA No.13362 of 2021 is disposed of by directing the Distribution Company to give a new electric connection in the name of the petitioner at the premises-in-question, subject to the petitioner depositing all arrear dues, reconnection charges and complying with all other formalities as required by law irrespective of the objection of the landlord.

However, it is made clear that such connection, if given, shall not confer any right and/or special equity in favour of the petitioner in respect of the premises-in-question.

It is further clarified that it will be open to the civil court and the appellate court to decide the suit and the injunction application pending between the private parties in accordance with law on its own merits without being prejudiced 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.)