

1st September,
2022
(AK)
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W.P.A 13434 of 2021

Nupur Pradhan and others
Vs.
State of West Bengal and others

Mr. Uttam Kr. Bhattacharya
Mr. Kaustav Mishra
...for the petitioners.

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

Mr. Jahar Dutta
Mr. Bipin Ghosh
...for the State.

Learned counsel for the petitioner contends, by placing reliance on a supplementary affidavit, which is filed today with the leave of court, that the District Magistrate's order, which has been challenged in the present writ petition, is patently erroneous inasmuch as the petitioner is the owner and in occupation of the alleged common passage, over which electricity poles have been erected.

It is submitted that the documents and other relevant records in possession of the petitioner clearly indicate the petitioners' exclusive title in respect of the said passage.

It is further submitted that the petitioners intend to make further construction in such property, which is being hindered due to the installation of the electricity poles.

Learned counsel appearing for the WBSEDCL submits that, pursuant to the order of the District Magistrate, the WBSEDCL has already carried out the same by installing electricity poles on the said passage.

Moreover, it is submitted by learned counsel for the WBSEDCL that the B.L. & L.R.O. report filed before the District Magistrate clearly indicates that the passage has been used since long by the neighbourhood people and the petitioner.

None appears, despite service, on behalf of the private respondent.

Upon hearing learned counsel appearing for the parties, it is evident that the dispute as to title raised by the present writ petitioner falls within the domain of the Civil Court to adjudicate.

In any event, neither the WBSEDCL nor the B.L. & L.R.O. are the appropriate authorities for conclusively deciding the title and the entitlement of possession in respect of any property.

However, it is well-settled that mere installation of electricity poles cannot operate to the detriment of the legal rights which a person may otherwise have inasmuch as title to the property is concerned.

It is not possible for this court, sitting in its writ jurisdiction, to finally and conclusively decide such issues as involved in the present matter, without taking elaborate evidence.

Hence, W.P.A. 13434 of 2021 is disposed of by granting liberty to the petitioners to approach to the competent civil court having jurisdiction with regard to the petitioners' alleged right, title and interest in respect of the disputed property and consequential reliefs, if the petitioners so choose.

It is made clear that this court has not gone into the merits of the respective contentions of the right, title and interest of the private parties with regard to the property in dispute.

It is further clarified that mere installation of the electricity poles over the passage-in-question shall not create any special right, title or interest detrimental to the right, title and interest of the real owner and all such questions shall be kept open for being considered by a competent civil court, if raised before it.

The installation of the electricity poles-in-question shall be subject to the outcome of the civil suit, if filed by the petitioners.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)