

AD. 14.
July 6, 2022.
MNS.

WPA No. 12384 of 2022

Biplab Roy
Vs.
The State of West Bengal and others

Mr. Souri Ghosal,
Mr. Prasayan Mukherjee,
Mr. Prabhat Kumar Singh

...for the petitioner.

Mr. Prsikshit Goswami

...for the State.

Dr. Madhusudan Saha Roy

...for the WBSEDCL.

Mr. Abhinav Rakshit

...for the respondent no. 4.

Learned counsel for the petitioner contends that due to resistance created by the respondent no. 4, who is a co-owner of the petitioner in respect of the premises-in-question, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) personnel are not being able to give electricity connection to the petitioner independently in the petitioner's own name.

Learned counsel appearing for the petitioner further iterates that a partition suit is at present pending between the private parties to the present writ petition.

Learned counsel appearing for the WBSEDCL submits that the Distribution Licensee does not have any objection in giving such connection to the petitioner, subject to the petitioner complying with all relevant formalities, but the personnel of the Distribution Licensee are not being able to hold inspection due to resistance put up by the respondent no. 4.

Learned counsel appearing for the respondent no. 4 contends that although the petitioner is a co-owner and a partition suit is pending between the parties, the said respondent no. 4 is living with his nonagenarian mother on the Western side of the premises and the petitioner is at present fully enjoying the electricity from the petitioner's connection at the premises. However, if a new independent connection is given to the petitioner, the said additional connection/meter may create safety hazards since the building-in-question is about hundred years old.

It is further submitted that for the purpose of giving such electricity connection to the petitioner, the connection has to be taken over adjacent property, the owners of which have also objected to such connection being given.

Upon hearing learned counsel for the parties, it transpires that the petitioner is admittedly a co-

owner of the premises and a partition suit is pending between the petitioner and the respondent no. 4.

As such, as a co-owner and co-possessor, the petitioner is entitled in law, within the purview of Section 43 of the Electricity Act, 2003 (2003 Act), to get an independent electricity connection in the petitioner's own name at the premises-in-question.

Hence, WPA No. 12384 of 2022 is allowed, thereby directing the WBSEDCL to hold an inspection for the purpose of checking the feasibility of giving electricity connection to the petitioner and thereafter to give such connection to the petitioner, subject to compliance of all legal formalities by the petitioner, as expeditiously as possible, preferably within one week from compliance of such formalities by the petitioner. Such inspection shall be completed by the WBSEDCL personnel within a week from date.

It is made clear that the electricity connection, if given to the petitioner, shall not *ipso facto* create any special right or equity in favour of the petitioner, apart from that to which the petitioner is already entitled in law.

In the event any obstruction is raised by respondent no. 4 and his men and agents at the time of holding such inspection and/or giving such connection to the petitioner by the WBSEDCL personnel, the personnel of the Distribution Licensee shall be free to approach the local Police Station for

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

The police personnel, if necessary, will be at liberty to remove any padlock and/or hindrance in the way of access to the officials of the WBSEDCL for the purpose of holding such inspection and/or giving such connection to the petitioner.

All parties as well as the Inspector-in-Charge / Officer-in-Charge of the local Police Station shall act on the written communication of the learned Advocate for the petitioner, coupled with a server copy of this order for the purpose of compliance, without insisting upon prior production of a certified copy thereof.

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.)