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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 14419 of 2021

(Via video conference)

Ramesh Kumar Jha

-vs.-

**West Bengal State Electricity
Distribution Company Limited & Ors.**

Ms. Sudeshna Basu Thakur
...for the petitioner

Mr. Sumit Ray
...for the WBSEDCL

Mr. Debanik Banerjee,
Mr. Mainak Swarnokar
...for the respondent nos. 5 and 6

Learned counsel for the petitioner argues that due to resistance being put up by the private respondents, the Distribution Company is being unable to give a new electric connection to the petitioner pursuant to the petitioner's application in that regard.

Learned counsel places reliance on the photocopy of a purported title deed, annexed to the writ petition, in order to substantiate the petitioner's claim regarding title in respect of the property-in-dispute.

Learned counsel appearing for the private respondents submits that a registered association of the locality, of which the private respondents are merely functionaries, has given objection to the petitioner having such new connection. It is submitted that the writ petition is bad for non-joinder of the said registered association, which is an independent juristic entity in its own right and not only raised objection to the petitioner's request for electric connection but is also in physical occupation of the land adjacent to the petitioner's alleged land.

It is further submitted that, as revealed from the sketch map appearing in the chain deed of the predecessor-in-interest of the petitioner, there are three intervening plots in between the 20 feet wide road, which is situated on the northern side of the property-in-dispute, and the property itself. However, it is contended that, in the deed by which the petitioner acquired the property, such intervening plots are missing and the road had been shown to be exactly adjacent to the property, on which ground a counter claim is pending at the behest of the private respondents for cancellation of the petitioner's purported deed, in connection with a suit instituted by the petitioner for declaration and injunction in respect of the disputed property.

Learned counsel appearing for the Distribution Company contends that due to resistance being put up by local people, the Distribution Company could not give a new electric connection to the petitioner and/or hold a proper inspection for such purpose.

Upon hearing learned counsel for the parties, it is evident from the records that a civil suit is pending before a competent court, along with a counter claim, wherein the title of the petitioner in respect of the disputed property is in question.

Since the allegations and counter-allegations have been made, regarding the identity of the disputed property as well as the title thereto, by the 'Niva Association', of which some of the private respondents are office-bearers, it would be redundant to refer the matter to the District Magistrate, who is otherwise the appropriate authority in law for deciding objections to electric connection. Even for the writ court, it is not possible or proper to take evidence on details and to adjudicate the factual dispute between the private parties, which renders it essential to relegate the private parties to the competent civil court, where the suit is pending between the private parties, along with the connected counter claim, for a resolution of the dispute, even as regards electric connection. It

will only be appropriate if the civil court *prima facie* decides the respective contentions of the parties for the limited purpose for ascertaining as to whether the petitioner is entitled to get electric connection in the petitioner's name at the premises-in-dispute, by virtue of Section 43 of the Electricity Act, 2003 on the basis of the materials produced before the civil court.

In such view of the matter, W.P.A. No. 14419 of 2021 is disposed of by granting liberty to the petitioner to approach the competent civil court where the petitioner's suit and the private respondents' counter claim is pending in respect of the disputed property, praying for appropriate orders from the civil court to ensure that the petitioner gets electric connection to the said premises.

If such an approach is made, the civil court shall decide the said application on its own merits independently and without being prejudiced in any manner by any of the observations made herein, needless to say, after giving adequate opportunity of hearing to all the interested parties, including the petitioner and the private respondents.

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.

(Sabyasachi Bhattacharyya, J.)