

AD-34
Ct No.09
10.08.2022
TN

WPA No. 14327 of 2022

Durgadas Gorain
Vs.
The West Bengal State Electricity Distribution
Co. Ltd. and others

Mr. Biswaranjan Bhakat,
Mr. Satya Ranjan Kundu

.... for the petitioner

Mr. Sujit Sankar Koley

.... for the WBSEDCL

Mr. Ivan Roy,
Mr. Sk. Abdur Rahim,
Mr. Nirupam Dutta

.... for the private respondent no. 5

Learned counsel for the petitioner submits that the petitioner is the owner of a premises, where one Prafulla Karmakar was the original tenant. Upon demise of the said Prafulla Karmakar, he left behind his heir Sadhan Karmakar, who had applied for disconnection of the electricity supply at the premises of the petitioner, which stood in the name of Prafulla Karmakar (since deceased).

However, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) has not yet acted on such disconnection notice. It is submitted that the said connection cannot be continued at the behest of a third person, unless a specific application

for new connection or transfer, in accordance with law, is made.

Since the petitioner/owner has not made any fresh application or application for transfer of name, the disconnection request of Sadhan Karmakar ought to have been allowed by the WBSEDCL by severing the electricity connection.

Learned counsel for the WBSEDCL submits that apparently respondent no.5-Ajit Mahato is enjoying electricity from the said connection. As such, the connection was not severed.

Learned counsel appearing for the private respondent no.5 submits that the private respondent no.5 was a joint tenant with Prafulla Karmakar in respect of the premises under the erstwhile owner. Subsequent to transfer of the property in the name of the petitioner, the possession of respondent no. 5 continued at the premises. Since Ajit Mahato, the respondent no.5 herein, had been enjoying electricity from the meter of Prafulla Karmakar, the same ought not to be disconnected at the present juncture, thereby curtailing the right of the respondent no.5, as a settled occupant, to enjoy electricity under Section 43 of the Electricity Act, 2003.

Upon hearing learned counsel for the parties, it is seen to be an admitted position by all parties that

Prafulla Karmakar, the erstwhile consumer, has died. Since his heir and son Sadhan Karmakar has applied and requested for disconnection of the said electricity supply in the name of the deceased, the WBSEDCL ought to have disconnected the same.

However, Ajit Mahato, if in settled occupation of the property, cannot be deprived of the right to apply for a new electricity connection in his own name at the premises.

Accordingly, WPA No. 14327 of 2022 is disposed of by directing the WBSEDCL to disconnect the electricity at the premises-in-question standing in the name of late Prafulla Karmakar (consumer ID: 242024684). However, such disconnection shall not preclude any settled occupant, including respondent no. 5, if in occupation, to apply for a fresh electricity connection in their own names. If so applied, the WBSEDCL is at liberty to process such application in accordance with law subject to compliance of all formalities by the applicant.

However, it is made clear that such electricity connection, if at all given to the respondent no. 5 or some other applicant, shall not confer, *ipso facto*, any special right or equity on the said new consumer.

It will be open for any civil forum and/or court to decide on the issue of the respective right, title and

interest of the private parties in the writ petition independently without being influenced 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.)