

M/L. 52.
August 8, 2022.
MNS.

WPA No. 14522 of 2022

Sanjoy Pramanick
Vs.
The State of West Bengal and others

Mr. Avirup Chatterjee,
Mr. Soumo Roy
... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra
...for the WBSEDCL.

Mr. Lakshmi Nath Bhattacharya
...for the private respondents.

Affidavit-of-service filed in Court today be
kept on record.

Learned counsel for the petitioner
contends that, pursuant to a previous direction of
a co-ordinate Bench of this Court, the petitioner's
objection/representation with regard to an
electricity pole being situated inconveniently in a
drain adjacent to the petitioner's co-sharership
property was decided against the petitioner.

It is submitted that initially a contempt
petition was filed well within time immediately
after such order in the year 2012 itself. However,
subsequently it transpired, when the contempt

was sought to be moved in this Court, that the contempt, in the opinion of the Court, did not lie. Hence, immediately thereafter the present writ petition has been taken out challenging the decision of the West Bengal State Electricity Distribution Company Limited (WBSEDCL) dated October 5, 2012 (Annexure – P5 at page 49 of the writ petition).

Learned counsel appearing for the private respondents vociferously controverts such submissions and contends that the decision taken in October, 2012 ought not to be permitted to be challenged in the year 2022.

That apart, it is submitted that the private respondents are enjoying electricity from the electricity pole-in-question, of which they cannot be deprived.

Moreover, it is argued that the electricity pole is situated on a common area.

Learned counsel appearing for the WBSEDCL corroborates the stand of the private respondents to the extent that the electricity pole is standing in a common area.

It is further submitted that, on preliminary inspection, the WBSEDCL has been able to ascertain that the electricity pole is not situated in

any drain at all. As such, the contention of the petitioner that the drain is being clogged with water and filth due to the pole is incorrect.

Be that as it may, since a disputed question of fact has arisen with regard to the exact location of the electricity pole-in-dispute and as to whether the same is causing any inconvenience to the writ petitioner, who is the co-owner of the adjacent property, it would be proper if the matter is decided upon hearing of parties by the concerned District Magistrate.

The District Magistrate, upon such reference, will have the opportunity to look into the relevant materials to ascertain the dispute.

In such view of the matter, WPA 14522 of 2022 is disposed of by granting liberty to the petitioner to refer the dispute to the concerned District Magistrate of the area.

Upon such reference being made, the District Magistrate shall give an opportunity of hearing to the petitioner, the private respondents, the WBSedCL and any other person, if interested, and decide on the issue whether the electricity pole-in-question is causing inconvenience in the locality, particularly to the writ petitioner and, if so, whether there is any

alternative location for shifting the said electricity pole, subject to compliance with formalities by the person claiming such shifting.

It is expected that the concerned District Magistrate shall decide the issue, as indicated above, within eight weeks from the date of reference.

It is made clear that the merits of the contentions of the parties in that regard have not been gone into by this Court and it will be open to the District Magistrate to decide all questions in accordance with law without being influenced in any manner by any of the observations made herein.

It is further clarified that the partition suit pending between the private parties shall not be affected in any manner by any of the observations made in the present order.

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.)