

AD-43
Ct No.09
11.08.2022
TN

WPA No. 17588 of 2022

Partho Ghosh
Vs.
State of West Bengal and others

Mr. Md. Sarwar Jahan,
Mr. Md. Ibrahim
.... for the petitioner

Ms. Sutapa Sanyal,
Ms. Rajlakshmi Ghatak
.... for the State

Mr. Sumit Ray
.... for the WBSEDCL

Mr. Arnab Roy,
Mr. Satyam Mukherjee,
Ms. Sayani Ahmed
.... for the respondent no.7

Learned counsel for the petitioner contends that the petitioner is suffering an eviction decree from two courts. Thereafter, a second appeal at the behest of the petitioner is pending before this court after admission, where an order of stay has been passed.

Learned counsel for the petitioner submits that when he sought transfer of the existing electricity meter, standing in the name of his deceased father, in his name, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) objected on two grounds, that Way Leave permission is not signed by the owner of the premises and a copy of the

tenancy agreement of present date is required to be enclosed.

Learned counsel appearing for the WBSEDCL submits that the Way Leave permission and a present proof of possession of the petitioner, as a prospective transferee, are required by the WBSEDCL as per the Rules and Regulations.

Learned counsel appearing for the private respondent argues that the petitioner is not a tenant in respect of the premises, nor is the occupation of the petitioner legal, since the petitioner is suffering an eviction decree of the trial court and the first appellate court.

Upon hearing learned counsel for the parties, it transpires that the petitioner has been admitted to be in possession of the property-in-question, by dint of pendency of the second appeal at the behest of the petitioner, which arose from a suit for eviction filed by the private respondent, implicitly admitting the current occupation of the petitioner.

However, the petitioner, irrespective of the lawfulness of such possession, is entitled to electricity under Section 43 of the Electricity Act, 2003 as a person in settled occupation of the premises. Of course, the proposed transfer cannot create any

special right or equity in favour of the petitioner other than that which the petitioner already has in law.

Hence, WPA No. 17588 of 2022 is disposed of by directing the WBSEDCL to process the transfer application, if any filed by the petitioner, at the earliest and grant such transfer, subject to compliance of all other formalities by the petitioner, irrespective of production of Way Leave permission or tenancy agreement as insisted upon by the WBSEDCL, expeditiously.

However, it is reiterated that such transfer, if given, shall not create any special right or equity in favour of the petitioner in any manner and shall not prejudice the rights and contentions of the parties in the pending litigation.

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.)