

AD. 19.
March 7, 2022.
MNS.

(Through Video Conference)

WPA No. 18865 of 2021

Sk. Firdous Islam
Vs.
The State of West Bengal and others

Md. Mokaram Hossain,
Mr. Salauddin Ahamed,
Mr. Saumen Gayen,
Mr. Sandipan Maity

...for the petitioner.

Mr. Santanu Mitra,
Mr. Ranjit Rajak

...for the State-respondents.

Mr. Sumit Kumar Panja,
Mr. Sujit Sankar Koley

...for the WBSEDCL.

Mr. Sagarmoy Ghosh

...for the respondent nos. 5 and 6.

Learned counsel for the petitioner submits that, despite the petitioner having complied with all formalities, the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') is not being able to give electricity connection due to obstruction created by the private respondent nos. 5 and 6.

Learned counsel for the WBSEDCL agrees with such contention and places reliance on an

application made before the police authorities for adequate police assistance in such regard.

Learned counsel appearing for the private respondent nos. 5 and 6 specifically controverts the contentions of the petitioner and submits that the private respondent nos. 5 and 6, being the lessors of the petitioner, have instituted an eviction suit against the petitioner, which is now sub judice.

It is further submitted that the writ petitioner has also filed a suit of his own, *inter alia*, for declaration that the petitioner is a monthly tenant and seeking a decree for declaration that the writ petitioner has a right to take an electric connection over his tenanted portion.

It is submitted by learned counsel for the private respondent nos. 5 and 6 that the petitioner prayed in the said suit simultaneously for declaration that he has to right to take electricity even without due process of law and on the other hand for permanent injunction against the defendant nos. 1 to 3 so that the defendant nos. 1 to 3 (including the present private respondents) may not disconnect electric connection over the property-in-question.

It is submitted that such prayers are mutually contradictory. It is further submitted that, in the written statement filed by the WBSEDCL in connection with the suits, the WBSEDCL has taken a

specific stand that there is already an existing connection at the premises-in-question.

Learned counsel appearing for the WBSEDCL reiterates that the WBSEDCL has no objection to the petitioner having electricity connection at the premises, of course, subject to compliance of all formalities by the petitioner. It is further submitted that apparently the private respondent nos. 5 and 6, as the owners of the premises, are at present enjoying electric connection at the said property. As such, there is no bar in the petitioner taking an independent connection in the petitioner's own name from the existing meter board position.

It is evident from the materials on record that the petitioner and the private respondent nos. 5 and 6 have filed counter suits against each other. The private respondent nos. 5 and 6, by filing their suit for eviction, have admitted the settled possession of the writ petitioner in respect of the premises-in-question.

Under Section 43 of the Electricity Act, 2003, as settled by several judgments of this court, a person in settled possession of a property is entitled to have electricity connection in his own name in the said property, unless there are any other legal impediments in doing so.

In the present case, even admittedly, the writ petitioner is a lessee. The eviction suit against the petitioner is sub judice as yet, thereby sustaining the

locus standi of the petitioner, as an occupant of the premises, to have electric connection in the petitioner's own name, until and unless the petitioner is evicted by due process of law.

Hence, there is no justification whatsoever for the obstruction put up by the private respondent nos. 5 and 6 in such connection being given to the petitioner.

In such view of the matter, WPA No. 18865 of 2021 is allowed, thereby directing the WBSEDCL to give electricity connection in the petitioner's own name at the premises-in-question as per the petitioner's application with a week from date.

In the event any obstruction is raised by the private respondent nos. 5 and 6 and/or their men and agents in so doing, the WBSEDCL personnel will be at liberty to approach the Inspector-in-Charge of Chandannagar Police Station (respondent no. 3) to grant adequate police assistance for such purpose at the cost of the petitioner.

If so approached, the respondent no. 3 shall act on a written communication of the learned Advocates for the parties, coupled with a server copy of this order, without insisting upon prior production of a certified copy thereof and grant such assistance as required for the limited purpose, as indicated above.

If any padlock or other hindrance is affixed / created in the WBSEDCL personnel having access to the existing meter board position, where the petitioner's connection will be given, it will be open to the police authorities to break open such padlock for the limited purpose of giving such connection.

Learned counsel for the State, on instruction, submits that the police authorities shall extend all possible help to the petitioner as per the direction of this Court.

It is, however, clarified that such electricity connection given to the petitioner shall not create any special equity or right in favour of the petitioner apart from the legal rights which the petitioner already has in respect of the premises-in-question.

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.)