

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 17353 of 2018

Satabdi Chakraborty
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Ujjal Roy,
Mr. Arpa Chakraborty
...for the petitioner

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

Learned counsel appearing for the petitioner argues that the mother-in-law of the petitioner, who is a licensee under the petitioner in respect of the premises-in-question, has a functional electric meter in the name of such mother-in-law. However, despite the petitioner having obtained an order of injunction from the civil court, restraining the mother-in-law from disturbing the possession of the petitioner, the said licensee has severed the electric connection to the portion where the petitioner is residing.

Hence, as an owner, it is submitted that the petitioner has a right under Section 43 of the Electricity Act, 2003 to get an independent electricity connection in her own name at the premises.

Learned counsel appearing for the Distribution Licensee, by placing reliance on the averments made in the affidavit-in-opposition by the respondent-authorities, submits that the WBSEDCL specifically refused to give a new connection in the name of the petitioner on the ground that there is already an existing meter at the premises.

In the affidavit-in-opposition, it has been more specifically alleged by the Distribution Licensee that the new connection, as sought by the petitioner, would tantamount to splitting of load, which is prohibited in law.

In the present case, as it appears from the contentions of the parties and the materials-on-record, there is a pending civil suit between the petitioner and her mother-in-law, that is, the alleged licensee.

In the said suit, an injunction order was passed against the said mother-in-law restraining the latter from disturbing the petitioner's possession in respect of the suit property. There is nothing on record as of today to indicate that the petitioner has taken out an appropriate proceeding for restoration of electric connection before the civil court.

Although learned counsel for the petitioner seeks an adjournment for producing a copy of the necessary application before the civil court, if any, alleging violation of the order of the civil court, such document

is unnecessary, since the remedy before the civil court cannot be interdicted in any manner by this Court.

In any event, in view of the specific objection of splitting of load having been taken by the Distribution Licensee, the appropriate authority under law to decide the issue of splitting of load is the concerned Grievance Redressal officer.

That apart, in the present case, the remedy of the petitioner, in view of the existence of a suit, is before the civil court, for having a direction on the defendant in the said suit for restoration of the electric connection of the petitioner.

In such view of the matter, W.P.A. 17353 of 2018 is disposed of by granting liberty to the petitioner to pursue appropriate remedy for restoration of electric connection in the civil suit pending before the competent civil court against the petitioner's mother-in-law.

However, in the event the petitioner has a specific objection to the allegation of apprehended splitting of load, it will also be open to the petitioner to approach the concerned Grievance Redressal Officer with such limited dispute.

It is, however, clarified that neither of the remedies of the petitioner, relating to splitting of load before the Grievance Redressal Officer and restoration of connection against the mother-in-law (alleged

licensee) from the civil court, shall, in any manner, exclude the other.

It is also made clear that this Court has not gone into the merits of the respective contentions of the petitioner and/or her mother-in-law who has not been impleaded as a party to the writ petition) with regard to their respective rights, titles and interests in the disputed property.

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.)