

AD. 17.
January 4, 2022.
MNS.

(Through Video Conference)

WPA No. 20457 of 2021

Shantabala Roychowdhury
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Rananeesh Guha Thakurta

...for the petitioner.

Ms. Sonal Sinha

...for the WBSEDCL.

Ms. Juin Dutta Chakraborty

...for the respondent no. 4.

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

The petitioner contends that due to resistance put
up by the respondent no. 4, the personnel of the West
Bengal State Electricity Distribution Company Limited (in
short 'WBSEDCL') are not being able to give a new
electric connection to the petitioner and/or to hold an
inspection for such purpose.

Learned counsel for the private respondent
argues that the respondent no. 4, in any event, is
admitted to be a co-sharer of the original total land, of
which the site of proposed electric connection is a part.
However, the respondent no. 4 contends that a gift deed
was executed in favour of respondent no. 4 in respect of

the specific plot, where the new electric connection has been sought by the petitioner, thereby conferring exclusive rights regarding the plot on the respondent no. 4. It is further argued that, only upon respondent no. 4 having filed a suit before a competent civil court with regard to such property, the petitioner rushed to get a new electric connection, in order to establish her purported right to the property-in-question. It is further argued that the petitioner is not in possession of the property-in-question, which is in exclusive possession of the respondent no. 4.

Learned counsel for the WBSEDCL submits that the electric connection could not be given due to resistance created by respondent no. 4 and the WBSEDCL is otherwise willing to give such connection subject to compliance of all formalities by the petitioner.

It appears from the nature of objection taken by the respondent no. 4 that the said respondent has claimed exclusive title to the plot of property where the new electric connection has been sought by the petitioner. However, it is the admitted position that the LR records stand in the name of the petitioner insofar as the disputed plot is concerned. Although learned counsel for the respondent no. 4 submits that such entry was procured by deception by the petitioner, it is well-settled that the recording of entries in a record of right creates *prima facie* presumption of possession, of course, subject to rebuttal.

In the present case, in any event, the WBSEDCL has to ascertain *prima facie* as to whether the applicant is in occupation of the land-in-question. Since no question has been raised by the WBSEDCL in that regard, there cannot be any impediment to the petitioner to get a new electric connection in her own name at the premises, as mandated under Section 43 of the Electricity Act, 2003. However, there cannot arise any question of conferment of any special equity or right on the petitioner *ipso facto*, merely by virtue of the electric supply being given to the petitioner, particularly in view of the pendency of the civil suit and other criminal proceedings between the private parties.

In the light of the above observations, WPA No. 20457 of 2021 is allowed, thereby directing the WBSEDCL to give new electric connection to the petitioner at the disputed premises, subject to compliance of all formalities by the petitioner, within a week from date and/or from the compliance of all formalities, whichever is earlier, if necessary, with adequate police help.

If so approached, the respondent no. 3, that is, the Officer-in-Charge of the Shyampur Police Station shall give adequate police assistance to the personnel of the WBSEDCL, at the cost of the petitioner, for the purpose of holding necessary inspection and giving such connection.

However, needless to say, such electric connection, if given, shall not create any special equity, right or possessory interest in favour of the petitioner *ipso facto* and it will be open for the civil court to decide such question on its own merits.

In the event any resistance and/or obstruction is created by respondent no. 4 and/or his men and agents in giving such connection and/or holding such inspection, the WBSEDCL personnel will be at liberty, as indicated above, to approach the police authorities.

There will be no order as to costs.

The parties shall act on the written communication of this order by the learned Advocates appearing for the parties, accompanied by server copies of this order, without insisting upon prior production of a certified copy thereof.

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.)