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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 20521 of 2021

Biswajit Singha & Ors.

-vs.-

The West Bengal State Electricity
Distribution Company Limited & Ors.

Ms. Manali Biswas

...for the petitioners

Mr. Mihir Kundu

...for the WBSEDCL

Mr. Heramba Narayan Datta,

Mr. Kingsuk Mondal

...for the respondents nos. 5 and 6

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

Learned counsel for the petitioners submits that
the petitioners are partners in respect of a partnership
firm, which was registered in the year 2020.
Subsequently, the private respondents have initiated a
suit for dissolution of partnership, which is now
pending without any order of injunction being passed
therein.

It is submitted that the private respondents
illegally disconnected electric connection to the
premises, taking advantage of the fact that the electric
connection, which was used by the partnership firm,

was in the name of the private respondents, who are the owners of the land.

When the petitioners sought to apply for fresh electric connection in the name of the partnership firm, the private respondents have objected to the same, for which the distribution licensee is not being able to give electric connection in the name of the partnership firm.

Learned counsel appearing for the distribution licensee submits that specific objections have been raised to the taking of electric connection in the name of the partnership firm at the behest of the petitioners, at the instance of the private respondents, on July 26, 2021 as well as on August 24, 2021. Learned counsel for the distribution licensee contends that the private respondents have specifically alleged that the application for electric connection in the name of the partnership firm was unlawfully made by the petitioners without taking the signatures of the private respondents, who are co-partners.

Learned counsel for the private respondents submits that there are several allegations levelled by the private respondents against the petitioners regarding the running of the partnership firm by the petitioners. On such score, a suit for dissolution of partnership firm (inter alia) has also been instituted by the private respondents, which is now pending. Apart

from levelling several allegations against the petitioners, it is further submitted that despite the pendency of the suit for dissolution, the petitioners illegally applied for electric connection in the name of the partnership firm at the premises, which are owned by the private respondents. Such application was made, it is alleged, without taking the signatures of the private respondents, who are not only the owners of the property but also the previous consumers in whose name the electric connection was subsisting previously.

It is further submitted that such attempt of the petitioners is patently unlawful and ought not to be permitted by this Court.

It is obvious that in view of the dispute going on between the private respondents and the petitioners in respect of the partnership firm-in-question, there is no scope of any way-leave certificate or consent being given by the private respondents in the teeth of their pending suit for the purpose of electric connection being given to the petitioners in the name of the partnership firm.

However, as envisaged in Section 43 of the Electricity Act, 2003, any person being in occupation of a property is entitled to have an electric connection thereto. Admittedly, the partnership firm is a registered one and is still subsisting, unless and until

dissolved by a decree of a competent civil court. The transfer deed as well as the pleadings of the private respondents in the suit also indicate clearly that the partnership firm is still in possession of the premises-in-question, although non-functional at present due to such disconnection of electricity by the private respondents. It also appears from the submission of the private respondents that the petitioners are, in fact, still running the business with generators and other appliances, even after such disconnection.

However, since the partnership firm has been running a bottling of water and allied business, it would be most inconvenient for the business to be run continuously by generators. Such *modus operandi*, would, in any event, be counterproductive in the long run and would not fetch any profit to the business. Since the partnership firm has been continuing and running a business, having not yet been dissolved by any order or decree of any competent court, the private respondents cannot restrain the petitioners from taking electric connection till the partnership firm is dissolved, if at all. For such purpose, if the private respondents do not want to continue with their own electric connection, nothing in law can compel them to so continue. However, equally, the private respondents do not have the right to prevent the petitioners to have electric connection for the present

till the partnership firm is dissolved by a competent court's decree, if at all.

Hence, W.P.A. No. 20521 of 2021 is allowed, directing the WBSEDCL to give electric connection in the name of the partnership firm now being run by the petitioners, as per the application of the petitioners, subject to compliance of all requisite formalities by the petitioners, without insisting upon prior production of way-leave certificate in view of appearance of the private respondents as parties to the present writ petition. Such new electric connection shall be given by the WBSEDCL as expeditiously as possible, positively within three weeks from the compliance of all formalities by the petitioners and/or this date, whichever is later.

In the event any resistance is put up by the private respondents and/or their men and agents to such connection being taken by the petitioners, the WBSEDCL personnel will be at liberty to approach the nearest police station for adequate police assistance in that regard.

If so approached, the Officer-in-Charge of the local police station shall provide such police assistance, at the cost of the petitioners, for the limited purpose of providing access to the WBSEDCL personnel to the proposed location of the electric meter to be given in the name of the partnership firm.

All parties as well as all concerned shall act on the written communication of the learned advocates for the parties, accompanied by server copies of this order, without insisting upon prior production of a certified copy thereof.

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.)