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29.11.2022.
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W.P.A. No. 23425 of 2022

Sampa Shahu
Vs.
The Chairman and Managing Director,
WBSEDCL Ltd. & Ors.

Mr. Bijoy Brata De
...for the petitioner

Mr. Debanjan Mukherjee
...for the WBSEDCL

Mr. Malay Bhattacharyya
...for the private respondent

The dispute arisen in the present writ petition is that the petitioner filed a title suit and obtained an order of injunction, inter alia, restraining the defendant therein, that is, the present private respondent, from changing the nature and character of the B-Schedule property therein, in any manner.

It is submitted by learned counsel for the petitioner that despite such injunction order, an electricity pole has been installed on the petitioner's property, through which electricity connection has been given to the private respondent.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) submits that the injunction order pertains to the nature and character of the property and does not, in any manner, affect the right of the private respondent to get electricity connection.

Learned counsel appearing for the private respondent reiterates the proposition that the private respondent is entitled to get electricity connection under Section 43 of the Electricity Act, 2003 and that the outcome of the suit will decide the fate of the title as regards the property and it will be premature at this juncture to hold that the pole has been installed on the petitioner's property.

Upon considering the submissions of the parties and perusing a true copy of the order of injunction, handed over by learned counsel for the WBSEDCL, it is found that the injunction order, which in any event was operative for a particular period, was only pertaining to the nature and character of the suit property and did not, in any manner, affect the right of the private respondent to get electricity connection at the premises-in-question.

That apart, there was no specific denial on the part of the petitioner and/or any recording in the injunction order to such effect that the private respondent is not in possession of the property-in-question or to the effect that the petitioner is the exclusive owner of the property. As such, it would be premature, at this juncture, to hold that the electricity pole was unauthorisedly installed on the property of the petitioner.

Hence, there is no scope of interference in the present writ petition.

Accordingly, W.P.A. No. 23425 of 2022 is disposed of with liberty to the petitioner to proceed with the suit and claim for adequate reliefs in connection with such suit.

It is made clear that the merits of the respective contentions of the parties in the title suit are not gone into by this Court in any manner whatsoever.

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.)