

D/L. 106.
December 16, 2022.
MNS.

WPA No. 23442 of 2022

Biswajit Karmakar
Vs.
The Station Manager and Assistant
Engineer and others

Mr. Lakshminath Bhattacharya

... for the petitioner.

Ms. Bandana Basu

...for the WBSEDCL.

Ms. Bineeta Bhattacharjee

...for the State.

Mr. Shahan Shah,
Mr. Soumen Barman

...for the private respondent.

The contention of the petitioner is that the private respondent is taking electricity connection over the petitioner's plot.

It is alleged that the private respondent has a dispute with the petitioner for which the electricity line is sought to be taken over the plot of the present petitioner, to harass the petitioner.

Learned counsel appearing for the private respondent disputes such contention and submits that the private respondent has already obtained an order of injunction against his landlord in a civil

suit. That apart, in a proceeding under Section 144 of the Code of Criminal Procedure, an order has been passed, first by the concerned Executive Magistrate and then by the Sessions Court, directing electricity supply to be given to the private respondent. It is contended that the petitioner is also a party to the said criminal proceeding.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL), by placing reliance on the affidavit-in-opposition filed by the Distribution Licensee, submits that a sketch map has been annexed to such affidavit, wherein the WBSEDCL has indicated the proposed route for giving electricity line to the private respondent. It is submitted that although the proposed route from the existing electricity pole 'P-0' to the meter room is already being used by the adjacent plot-holders of the private respondent for getting electricity by installing brackets.

However, it transpires that the diagram indicates that another additional electricity pole, indicated as 'P-1' in the map, has to be installed on a passage for the purpose of completing the circuit from 'P-0' to the meter room for the

purpose of giving a connection to the private respondent.

The dispute which has arisen in the present case revolves around the ownership and right of user of the said passage, over which the electricity connection is proposed to be given to the petitioner. The petitioner contends that it is a common passage, which is also indicated in the sketch map furnished by the WBSedCL. However, the petitioner disputes such contention and submits that it is the exclusive property of the petitioner and the private respondent is seeking to open up a right of user by virtue of taking the electricity connection.

It appears from the sketch map annexed by the WBSedCL to their affidavit-in-opposition that the proposed line goes over a *kachha* path.

It also transpires from a perusal of the map that the adjacent plot holders are already enjoying electricity connection at their own premises by using brackets over the same route.

Such contention, of course, is denied by the petitioner.

As such, there is a patent dispute between the petitioner and the private respondent inasmuch as the right of user and ownership of

the passage, where an additional pole has to be installed for the purpose of giving electricity connection to the private respondent, is concerned.

Such a dispute cannot be resolved by the writ court with its constraints regarding inviting and appreciating detailed evidence on disputed questions of fact.

The Works of Licensees Rules, 2006, stipulates that the District Magistrate is the appropriate authority for considering the disputes with regard to electricity connections.

In such view of the matter, WPA No. 23442 of 2022 is disposed of by directing the District Magistrate, South 24 Parganas, that is, the respondent no. 2 in the present case, to decide the dispute between the parties, as urged in the present writ petition, as expeditiously as possible, preferably within six weeks from the date of communication of this order to the District Magistrate, in accordance with law and upon giving an opportunity of hearing to all concerned.

The private respondent shall communicate this order to the District Magistrate at the earliest in order to expedite its implementation.

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.)