

AD-15
Ct No.09
14.11.2022
TN

WPA No. 23712 of 2022

Sri Chandra Sekhar Gope
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Saumyajit Ghosal
.... for the petitioner

Mr. Sujit Sankar Koley
.... for the WBSEDCL

Mr. Asit Baran Raut,
Ms. Ishita Raut,
Mr. Tuhin Subhra Raut
.... for the private respondent no.6

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

Learned counsel for the petitioner contends that
the petitioner is the landlord of the property.

The private respondent no.6 in the present writ
petition, that is, Sri Biswajit Ghosh, is a tenant of the
property. However, it is alleged by the petitioner that
the respondent no.6 is not personally occupying the
premises-in-question but has sub-let the premises to
third parties. As such, since Section 43 of the
Electricity Act, 2003 stipulates that an occupant or
owner can be given a new electricity connection, in
view of the private respondent no.6 being none of the

two, the electricity connection given in the name of the private respondent ought to be disconnected.

Learned counsel further submits that previously the private respondent had obtained an order of this court, by creating a mischief in the sense that it was represented that no 'Way Leave' certificate was required. That apart, it is submitted that the landlord has never given any consent at any point of time for giving such connection.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) relies on the facts on record.

In addition, it is reiterated by learned counsel for the WBSEDCL as well as for the private respondent that the previous writ petition had not been decided on merits but had been disposed of as infructuous in view of the electricity connection having been already given to the present private respondent (writ petitioner therein).

It transpires from an order dated September 30, 2022, passed in IA No: CAN 1 of 2022, filed in connection with WPA No. 20512 of 2022, that the present petitioner, being the respondent no.5 in the said writ petition, had moved the said application for recall of an order disposing of the said writ petition, that is, WPA No. 20512 of 2022. However, such recall

application was disposed of by this court by the order dated September 30, 2022 on the observation that since WPA No. 20512 of 2022 had been dismissed as infructuous on the submission of the WBSEDCL that electricity connection had been given, there was no adjudication on merits.

The present arguments of the petitioner are mostly in the line of the arguments made in the recall application which has already been disposed of. Inasmuch as the alleged 'mischief' of the present private respondent no.6 is concerned, there does not appear to be any such mischief, since the petitioner, being admittedly a tenant of the property, is in deemed possession thereof, irrespective of the allegation of sub-tenancy which, in any event, has been disputed and controverted by the private respondent no.6.

Hence, under the law, the private respondent no.6 was and is entitled to get an independent electricity connection at the premises and it is beyond the business of the landlord, who is the present petitioner, to seek the disconnection of the same.

The present writ petition is evidently a component of the chain of events initiated by the landlord for harassing and ousting the private respondent no.6 illegally from the property.

Inasmuch as the allegation of sub-letting is concerned, it is always open for the landlord/petitioner to agitate such grievance before an appropriate court and in an appropriate proceeding, filed before a competent civil court or otherwise.

In any event, the present writ petition is frivolous in nature.

Accordingly, WPA No. 23712 of 2022 is dismissed with costs of Rs.20,000/- (Twenty Thousand) to be paid by the petitioner to the private respondent no.6, by November 21, 2022.

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.)