

21st November,
2022
(AK)
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W.P.A 23834 of 2022

Bholanath Ghosh
Vs.
Chairman, WBSEDC Limited and others

Mr. Nirmalendu Bera
Mr. Gora Chand Samanta
Mr. Hiranmoay Dutta
...for the petitioner.

Mr. Soumyajit Chakraborty
...for the WBSEDCL.

Learned counsel for the petitioner contends that despite the matter being referred to the District Magistrate and the District Magistrate observing that a portion of the petitioner's plot was intersected for giving an electricity connection to the private respondent, the District Magistrate refused to direct the removal of the said electricity pole situated over the petitioner's property, through which the private respondent's property has been electrified.

Learned counsel for the WBSEDCL submits that the WBSEDCL has already explored the possibilities and, upon a joint inspection, as evident from the records themselves, it was found that no alternative route apart from its present route is available to give electricity connection to the private respondent.

It is further submitted, by placing reliance on the order of the District Magistrate, that the said electricity pole was installed long back, at least before ten years, on consent and, as such, there is no scope of reopening the said issue at this belated juncture.

Upon hearing learned counsel for the parties and perusing the materials-on-record, the District Magistrate order itself reveals, as rightly pointed out by the WBSEDCL, that the pole-in-question was installed at its present location on oral consent long back, that is, ten years before.

Moreover, the District Magistrate took pains to enter into the issue and come to the finding that the WBSEDCL has taken electric connection to the house of the private respondent in such a manner so that minimum negligible interference is effected to others.

No alternative way is available for laying electricity connection than the existing route.

Hence, the District Magistrate arrived at the conclusion that the installation of the electricity connection, as existing, is *prima facie* logical and practical, being free from any greater inconvenience to others.

The grievance of the writ petitioner, it was recorded by the Magistrate, further, is not sustainable as a very slight portion of north east corner of Plot no.904, belonging to the petitioner, is affected.

Hence, the allegation of the petitioner was rightly found by the District Magistrate to have no effective force considering the ground reality.

As such, I do not find any illegality or jurisdictional error in the order of the District Magistrate inasmuch as refusal of the petitioner's prayer of removal of the electric pole in question is concerned.

However, keeping in view the facts that the consent was given and the nature of the consent ten years back being somewhat fudged and since the petitioner is a cultivator by occupation and of sixty six years' age and thus giving benefit of doubt to him the extent that the petitioner might not be well aware of the legal provisions applicable in the factual circumstances, WPA 23834 of 2022 is disposed of by granting liberty to the petitioner to approach the WBSEDCL for adequate compensation in the event the petitioner's rights and enjoyment with regard to the petitioner's plot no.904 are hampered in any manner.

Since there might be an element of continuing cause of action in such adverse effect on the petitioner for such installation, if at all, there is scope of doubt as to whether the delay in asking for such compensation would be a deterrent at all in claiming compensation now.

It is made clear that the merits of the contentions of the petitioner with regard to compensation have not been gone into and it will be open to both the petitioner and

the WBSEDCL as well as all others affected to urge their respective contentions in that regard, if the petitioner so approaches the WBSEDCL authorities and the WBSEDCL authorities shall decide such application for the petitioner, if filed, expeditiously and in accordance with law, preferably within one month after filing of the same.

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

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)