

AD-11
Ct No.09
14.12.2022
TN

WPA No. 26606 of 2022

Macadum Leisure Pvt. Ltd.
Vs.
West Bengal State Electricity Distribution Company
Ltd. and others

Mr. Mukteswar Maity,
Ms. Manika Sarkar

.... for the petitioner

Mr. Sumit Ray

.... for the WBSEDCL

Learned counsel for the petitioner argues that despite the petitioner enjoying an injunction order in a civil suit for specific performance of contract filed against the private respondent, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is not giving electricity supply to the petitioner. By pointing out to the communication of the WBSEDCL dated September 15, 2022 (Annexure P/5 on page-45 of the writ petition), it is submitted that the WBSEDCL is unnecessarily insisting upon the production of a registered deed as proof of ownership of the petitioner with regard to the property as well as claiming outstanding dues amounting to Rs.96,679/- along with subsequent LPSC.

It is submitted that the previous dues were left unpaid by the erstwhile owner, with whom the

petitioner had entered into an agreement for transfer, and possession had been handed over in favour of the petitioner with regard to the property-in-question.

Moreover, no document as to ownership is necessary for getting an electricity connection.

Learned counsel for the Distribution Licensee submits that the WBSEDCL sought for some document showing the petitioner's occupation of the property. That apart, in the writ petition itself, it has been admitted that the petitioner was enjoying electricity connection from the meter regarding which default has been left by the consumer.

It is seen from the communication of the WBSEDCL that a registered deed as proof of ownership has been insisted upon *de hors* the law, since a mere occupant of a property, even without being the owner thereof, is entitled to electricity connection in his own name irrespective of the legality of such occupation.

The civil court, in its injunction order dated May 20, 2022, passed in Title Suit No. 510 of 2020, came to the finding that whether the plaintiff/writ petitioner is illegal occupier or not will be decided after taking evidence from both sides. It was further found that the allegation of disconnection of water line against the

defendant was clearly made in the petition, on which point the defendant in the suit remained silent.

The defendant in the suit was directed to restore the water connection in the suit premises.

From the tenor of the said observations, it is clear that the Civil Judge (Senior Division), First Court at Barasat, being a competent court where a suit for specific performance is pending between the petitioner and the private respondent, came to the *prima facie* conclusion that the petitioner is in occupation of the property, irrespective of the legality or illegality thereof.

Although learned counsel for the WBSEDCL seeks to place reliance on the Works of Licensees Rules, 2006, to the effect that a person has to be in lawful occupation for getting electricity supply, it has been well-settled by several judgments of this court that the lawfulness or otherwise of a person who is in occupation of a property shall not be decided by the Distribution Licensee for the purpose of giving electricity connection to the said occupant.

Hence, the insistence on a registered deed of ownership, particularly in the teeth of pendency of the suit for specific performance pending at the behest of the plaintiff, is irrational and illegal.

However, the WBSEDCL would be justified in insisting upon production of some *prima facie* document to indicate occupation of the property by the petitioner.

In the present case, such requirement is also obviated in view of the specific finding of the civil court, although *prima facie*, to the effect that the petitioner is in occupation of the property.

Hence, irrespective of the legality of such occupation, which is not the look-out of the WBSEDCL to decide, since a suit is pending before a competent civil court, the connection has to be given by the WBSEDCL in the name of the petitioner. However, since the petitioner is agreeable to deposit the outstanding amounts without prejudice to his rights and contentions, the WBSEDCL cannot have any further impediment in giving the electricity connection to the petitioner.

Accordingly, WPA No. 26606 of 2022 is disposed of by directing the WBSEDCL to give electricity connection in the name of the petitioner, subject to compliance of formalities and deposit of the outstanding amounts with regard to the existing meter at the premises, to the tune of Rs.96,679/- along with subsequent LPSC, without prejudice to the rights and contentions of the petitioner to challenge the said

amount, within a fortnight from date or from compliance of formalities, whichever is later.

In the event the WBSEDCL officials are obstructed by respondent no.4 and/or his men and agents in doing so, the WBSEDCL personnel shall be at liberty to approach respondent no.3, the Officer-in-Charge, Baguihati Police Station for police assistance in that regard. If so approached, the respondent no.3 shall act on the server copy of this order and give such assistance at the cost of the petitioner, if necessary removing any hindrance or padlock, if put up by the private respondent no.4 to the WBSEDCL personnel in giving such connection.

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.)