

AD-09
Ct No.09
19.12.2022
TN

WPA No. 26702 of 2022

Nandalal Barui
Vs.
The Station Manager, West Bengal State Electricity
Board and others

Ms. Sananda Bhattacharyya
.... for the petitioner

Mr. Debanjan Mukherji
.... for the WBSEDCL

Mr. Apratim Bhattacharya,
Mr. Souvik Chatterjee
.... for the private respondent no.5

Leave is granted to the learned Advocate-on-record for the petitioner to carry out the necessary amendments to the cause title of the writ petition to implead the West Bengal State Electricity Distribution Company Limited (WBSEDCL) as a party respondent to the present writ petition, since two officials of the WBSEDCL have been impleaded as respondents, but the said Distribution Licensee itself has not been so impleaded.

Learned counsel for the petitioner contends that the petitioner is a tenant in respect of the property-in-dispute and has been in occupation of the said property till date. However, although a previous electricity connection at the same premises, standing

in the name of the petitioner's father (since deceased), was disconnected, even upon the petitioner having made a new application for electricity connection and having deposited the quotation amount, the WBSEDCL is now insisting upon a Way Leave certificate being obtained from the private respondent/landlord.

Learned counsel for the WBSEDCL submits that the WBSEDCL had to disconnect the previous electricity connection standing in the name of the petitioner's father in view of an order passed by a civil court. Learned counsel further submits that the WBSEDCL otherwise does not have any difficulty in giving the new connection to the petitioner, but the petitioner is required to obtain a Way Leave permission from the landlord/owner.

Learned counsel appearing for the private respondent/landlord submits that the private respondent has already instituted an eviction suit against the petitioner, which is now pending.

That apart, since the electricity connection in the name of the petitioner's deceased father was continuing in the name of the said deceased even after his demise, the same had to be disconnected.

Upon hearing learned counsel for the parties, the first thing which strikes the eye is that the

pendency of an eviction suit cannot be a hindrance to an occupant of a premises getting an electricity connection in his/her name. Section 43 of the Electricity Act, 2003 is wide enough to contemplate the right to get electricity connection in favour of both the lawful and unlawful occupants, as decided in several judgments of this court.

Whatever may be the outcome of the eviction suit, the electricity connection, if given to the petitioner in his name, will definitely abide by the result of the same. However, there is no present impediment to the petitioner getting such electricity connection in his own name upon compliance of formalities, which he has already done.

The lack of Way Leave permission from the landlord cannot be a hindrance to the petitioner getting a new electricity connection to his premises.

Accordingly, WPA No. 26702 of 2022 is disposed of by directing the WBSEDCL to give a new electricity connection in the name of the petitioner at the disputed premises within a fortnight from date.

It is, however, made clear that as and when the electricity connection is so given, the same shall not create any special right or equity in favour of the petitioner which the petitioner otherwise does not have in law and shall not influence in any manner the

result of the eviction suit pending between the private parties.

In the event the WBSEDCL personnel are resisted by the private respondent from giving such electricity connection to the petitioner from the existing meter board position at the premises, it will be open to the WBSEDCL personnel to approach the local police station for adequate police assistance in that regard. If so approached, the Officer-in-Charge/Inspector-in-Charge (as applicable) of the said police station shall give such assistance to the WBSEDCL at the cost of the petitioner by acting on a server copy of this order, without insisting upon prior production of a certified copy of the same.

This court has not entered into the dispute pending in the civil court *inter se* the private parties.

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.)