

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 10682 of 2020

(Via video conference)

Banshi Purokait

-vs.-

The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Arun Naskar

...for the petitioner

Ms. Bandana Basu

...for the WBSEDCL

Mr. Amajit De

...for the respondent no. 3

Learned counsel for the petitioner argues that, as indicated at page 9 of the writ petition, an agreement was arrived at by and between the petitioner and the private respondents in the presence of the Panchayat Pradhan, which is subsequently being flouted by the private respondents. It is submitted that the private respondents have also approached the criminal court repeatedly for obtaining orders under Section 144 of the Criminal Procedure Code to frustrate the agreement.

Learned counsel appearing for the Distribution Licensee submits that when the

Distribution Licensee personnel went to install a new electric pole for giving such connection, they were obstructed in doing so by the private respondents and their men and agents on the ground that the private respondents do not admit the purported agreement.

Learned counsel appearing for the private respondent no. 3, who substantially represents the estate of all the private respondents as there is unity of cause of action of the private respondents inter se, submits that the agreement relied on by the petitioner is not a valid contract in law and the private respondents do not admit the same. That apart, the petitioner is allegedly seeking to build a wall dividing the entire plot, which is jointly owned by the petitioner and the private respondents.

It is further reiterated by learned counsel for the Distribution Licensee that, on repeated occasions, the private respondents have approached the criminal court, for which the Distribution Licensee could not install a new electric pole for the purpose of giving such connection to the petitioner.

It is an admitted position that the petitioner is, at least, a co-owner (as opposed to exclusive owner) in respect of the property where the electric connection has been sought.

Although the purported agreement between the parties may or may not be legally sustainable in view of the same not being a registered document and the private respondent objecting to the same, in any event, the petitioner is entitled to get electric connection at the premises in view of the petitioner, in the least, being a co-owner of the said property and being in joint possession thereof. For such purpose, the Distribution Licensee is well within its legal authority to install an electric pole as convenient for the purpose of giving such connection.

Hence, the private respondents have no *locus standi* to come in the way of such connection being given. In the event an electric pole, required for giving such connection to the petitioner, is to be erected, the same will be done by the Distribution Licensee irrespective of the objection of the local people and/or the private respondents,

also considering the question of compensation for the damages, if at all, payable to the private respondents.

Hence, W.P.A. No. 10682 of 2020 is disposed of by directing the WBSEDCL to immediately erect the required new electric pole and, thereafter, to give new electric connection to the petitioner, subject to the petitioner complying with all due formalities in that regard, irrespective of the objection taken by the private respondents.

In the event any obstruction is faced by the Distribution Licensee personnel in doing so, it will be open to the WBSEDCL personnel to approach the local police station for adequate police assistance.

If so approached, the Officer-in-Charge/Inspector-in-Charge of the local police Station shall grant adequate police assistance in that regard to the WBSEDCL personnel, at the cost of the petitioner.

It is, however, made clear that none of the observations made herein shall come in the way of the private respondents claiming compensation, if they are at all entitled to the same, upon the work being executed for the

purpose of installing the new electric pole and giving such connection to the petitioner.

If such claim of damages/compensation is made by the private respondents, the concerned authority shall decide on the same in accordance with law upon giving adequate opportunity of hearing to all interested parties, without being influenced in any manner whatsoever by any of the observations made herein.

It is made clear that, since no affidavits have been invited in the matter, the allegations made in the writ petition are deemed to have been denied by all the respondents.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)