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04.03.2022.
D.P

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 193 of 2022
(via video conference)

Sri Amitava Saha & Anr.
-versus
WBSEDCL & Ors.

Mr. Sunil Kumar Sarkar
Md. Usuf Ali
Ms. Smita Sinha
...For the Petitioner

Mr. Sudipto Kumar Bhowmik
... For WBSEDCL

The petitioner claims to be the promoter of the premises in question. He is aggrieved by the notice of disconnection given by West Bengal State Electricity Distribution Company Limited on 20th September, 2021.

Prior to the issuance of notice of disconnection, the Distribution Company by a letter dated 18th August, 2021 requested the petitioner to submit registered deed of agreement between him and the owner and to provide the approved building plan. As the petitioner failed to submit the required documents the Electricity Distribution Company disconnected the electric line of the petitioner.

According to the petitioner, the development agreement between the promoter and the owner of the premises is not required to be registered. The petitioner, accordingly, does not

have registered deed or document with regard to development of the property in question.

It has been submitted that the petitioner has spent considerable amount of money for setting up of a transformer in the premises in question. The Electricity Distribution Company ought not to have disconnected the line of the petitioner on account of non-supplying the registered deed. The petitioner alleges that he paid the land owner nearly eighteen lakh rupees on account of a share of owner's allocation.

Learned advocate representing the Distribution Company Limited submits, upon instruction, that the owner of the premises submitted a letter before the Distribution Company wherein it was specifically mentioned that the owner did not give any registered power of attorney and never sold any portion of the said plot of land to any person through the registered deed of sale. The letter further mentions that no person is entitled to the electric connection in her building and if any person applies for the same, then it will be a forgery case.

She raised an allegation of forgery and requested the Distribution Company Limited not to effect electric connection to any person.

Relying on the aforesaid instruction, the Distribution Company disconnected the electric line of the petitioner.

The petitioner submitted a representation before the Station Manager of the Distribution Company wherein, the petitioner requested the authority not to provide separate electric connection in the name of any flat owner in respect of

the property, namely, ***“Mahakash Apartment, Pradhan Nagar, Siliguri”***.

It appears from the submissions made on behalf of both the parties that the issue in question is primarily with regard to the amount of money which the petitioner is entitled to receive from the flat owners on account of providing electric connection from the transformer which has already been setup in the said premises by the Distribution Company.

It further appears that the land owner also claims a share of money either from the promoter or the flat owners.

The Land owner has given categoric instruction to the Distribution Company that forgery has been committed by the petitioner and a formal FIR has been lodged against the petitioner before the police.

Interference by the High Court in exercise of writ jurisdiction, at this stage, by directing the Distribution Company to reconnect the electric connection will not be proper. There are several disputed questions of facts which are required to be adjudicated prior to passing any order in the matter.

The writ petition is accordingly dismissed.

Dismissal of the writ petition will, however, not stand in the way of the respondent no. 3 to take steps for consideration of the representation filed by the petitioner on 10th January, 2022 strictly in accordance with law after giving a reasonable opportunity of hearing to all the necessary parties to produce supporting documents on their behalf. The said respondent shall pass a reasoned order at the earliest and communicate

the same to the petitioner and all other necessary parties immediately thereafter.

The petitioner is given leave to forward a copy of the representation dated 10th January, 2022 to the respondent no. 3 at the time of communicating the order of this Court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, after completion of all legal formalities.

(Amrita Sinha, J.)