

24th January,
2023
(AK)
04

W.P.A 670 of 2023

Anup Kumar Maity
Vs.
The State of West Bengal and others

Mr. Priyanjit Kundu
Ms. Snigdha Saha
...for the petitioner.

Mr. Sujit Sankar Koley
...for the WBSEDCL.

Mr. Narayan Chandra Bhattacharyya
Ms. Sujata Ghosh
...for the State.

Ms. M. Maity
...for the private respondent no.7.

Learned counsel for the petitioner submits that the petitioner is a tenant in the disputed property and has been running a shop room there for at least the last twenty eight years.

However, it is alleged that subsequently the private respondent, that is, the landlord, along with other influential persons of the locality, had threatened the petitioner and ultimately ousted the petitioner from the property. Thereafter, by virtue of a court order, the petitioner was reinstated in possession.

However, thereafter the petitioner's electricity supply was disconnected by the private respondents.

Such allegations are controverted by learned counsel appearing for the private respondent, who submits that the petitioner has not been residing at the shop room for the last twenty eight years. Moreover, it is argued that the petitioner could not have been running a shop without electricity for so long.

It is further contended by learned counsel for the private respondent that the private respondent never disconnected the electric supply of the petitioner and do not have any objection to the petitioner enjoying electricity from the private respondent's meter.

Learned counsel appearing for the WBSEDCL contends that Regulation 53 of 2013 of the WBERC, in particular Clause 14 thereof, debars the Distribution Licensee from giving a second electricity connection at the same premises. As such, since there is an existing connection of the private respondent at the premises, no new connection can be given.

From the arguments of parties, it is clear that there is enmity between the petitioner and the private respondent.

The private respondent claims to have filed a suit for eviction against the petitioner which is now pending. In fact, the private respondent alleges that the petitioner is not a tenant but a licensee.

Be that as it may, since there is a dispute pending before a civil court with regard to the status of the petitioner in respect of the property-in-question, it will be premature for the writ court to enter into such question at this juncture.

However, since the petitioner is admittedly in possession of the property, since the private respondent has filed an eviction suit against the petitioner, there is no scope of holding that the petitioner is not entitled to an electricity connection in the petitioner's own name.

Inasmuch as Clause 14 of Regulation 53 is concerned, the same prevents a Distribution Licensee from giving a new connection in the event there is an apprehension of splitting of load.

However, in view of the circumstances as narrated above, there cannot arise any question of collusion between the petitioner and the private respondent, which is a necessary pre-requisite for deliberate splitting of load between the said parties.

In the present case, the existing enmity between the private parties obviates any question of the petitioner intending to split load of electricity with the private respondent.

That apart, since the petitioner is in settled occupation of the property at present, irrespective of the status of the petitioner, as is the existing law, the

petitioner is entitled under Section 43 of the Electricity Act, 2003 to get a new electricity connection in his own name.

Accordingly, WPA 670 of 2023 is allowed, thereby directing the WBSEDCL to give a new electricity connection, from the existing meter board position at the premises, in the name of the petitioner at the premises-in-question upon compliance of all requisite formalities by the petitioner.

Such connection shall be given positively within two weeks from this date or the compliance of formalities, whichever is later.

It is made clear that in the event the WBSEDCL personnel are resisted from giving such connection to the petitioner, it will be open to the WBSEDCL personnel to approach the respondent no.6, that is, the Officer-in-Charge of the Mahisadal Police Station for adequate police assistance.

If so approached, respondent no.6 shall act on the written communication of the learned advocates for the parties, accompanied by a server copy of this order, for granting such assistance at the cost of the petitioner.

It is, however, made clear that the respective rights and contentions of the petitioner and the private respondent with regard to the property-in-dispute have not been gone into by this court and it will be open to the

competent civil court to decide such issue independently and in accordance with law.

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.)