

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 1041 of 2023

Arpan Halder & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Duke Banerjee
... for the petitioners

Mr. Debjit Mukherjee
...for the WBSEDCL

Mr. Md. Sabbir Biswas
...for the respondent no. 5

Affidavit-of-service filed in Court today be kept on record.

Learned counsel appearing for the petitioners contends that the petitioners are in occupation of flats in an apartment on the disputed property.

Despite the petitioners having paid all due amounts for getting electricity connection to the developer and the developer having deposited the same with the Distribution Licensee, that is, the West Bengal State Electricity Distribution Company Limited (WBSEDCL), such connection is not being given to the petitioners.

Learned counsel appearing for the Distribution Licensee submits that an application having been made by the developer/respondent no. 5 for installing

a transformer for the purpose of giving electricity connection to the petitioners, the WBSEDCL personnel went to the premises-in-question for installation of such transformer, but could not do so due to resistance at the locale.

Learned counsel appearing for the private respondent no. 5/developer submits that the developer is entitled to huge amounts of money from the respondent no. 6, that is, the land-owner, as per law and contract.

It is further submitted that in the event the petitioners have the transformer installed at the location, the respondent no. 5, shall not be able to recover such amounts from the respondent no. 6.

In the present case, the petitioners are undisputedly in occupation of the premises-in-question and have paid their portion of the money payable for installation of transformer for getting electricity connection. However, in spite of such payment being made by the petitioners, who are also entitled to get electricity connection under Section 43 of the Electricity Act, 2003, such transformer cannot be installed by the WBSEDCL due to resistance offered on the part of the respondent no. 5.

Whatever civil disputes the respondent no.5/developer has with the respondent no. 6/owner,

the petitioners, who are occupants with regard to the property, cannot suffer indefinitely on such pretext.

Accordingly, W.P.A. No. 1041 of 2023 is disposed of by directing the WBSEDCL to install the requisite transformer at the disputed location for the purpose of giving electricity connection to the petitioners and, thereafter, upon due further formalities being complied with, to give such connections to the petitioners, if the same is technically feasible.

However, it is made clear that such installation shall be done by the WBSEDCL as expeditiously as possible, preferably within three weeks from date.

It is further clarified that this Court has not entered into the merits of the disputes existing between the respondent nos. 5 and 6 and, in the event the said respondents wish to move before the appropriate forum or competent court in that regard, it will be open to them to move such litigation, which will be decided by the appropriate forum/court independently without being influenced in any manner whatsoever by any of the observations made herein.

It is also made clear that the installation of transformer shall be without prejudice to the inter se rights and contentions of the respondent nos. 5 and 6.

In the event any obstruction is offered by the respondent no. 5 and/or his men and agents in installation of the transformer by the WBSEDCL

personnel, it will be open to the WBSEDCL officials to approach the respondent no. 4, that is, the Officer-in-Charge, Sonarpur Police Station for adequate police assistance.

If so approached, the respondent no. 4 shall act on the server copy of this order and grant such assistance to the WBSEDCL personnel at the cost of the petitioners.

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.)