

1st March,
2023
(AK)
06

W.P.A 2527 of 2023

Debasish Chakraborty
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

Mr. Gouranga Kumar Das
...for the petitioner.

Mr. Debanjan Mukherjee
...for the WBSEDCL.

Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
...for the private respondent no.5.

Learned counsel for the petitioner submits that the petitioner became the exclusive owner and possessor of a two-storied building which is the proposed site of the disputed electricity connection.

It is submitted that initially the petitioner no.1 was a co-owner of the property along with respondent no.5 and their sister.

Subsequently a partition was effected by way of a registered partition deed in the year 2014, upon which the entire two-storied building was allotted to the present petitioner.

However, respondent no.6, who is an alleged transferee of respondent no.5, gave a declaration falsely that he was the owner of the property, on the basis of which, treating the same to be a 'No Objection' from the

owner, an electricity connection was given to respondent no.5- Ashis Chakraborty.

The petitioner has sought disconnection of the said electricity supply to Ashis, who is, according to the petitioner, not an owner of the property any more.

Learned counsel for the respondent no.5 contends that the proposition that the entire property was partitioned is disputed.

33 decimals out of the total property comprised of 34 decimals were partitioned, leaving one decimal, regarding which Ashis still remains the co-owner.

It is submitted that in that regard, a suit has been filed by Ashis, which is now pending and an injunction is subsisting therein restraining the defendants, including the present petitioner, from disturbing Ashis' possession in respect of the property.

The connection-in-question, it is submitted, was given much prior to the partition deed and unless the civil court decides the dispute raised by the respondent no.5, it would not be justified or legal to disconnect the electricity supply standing in the name of respondent no.5 from previous thereto.

Learned counsel appearing for the WBSEDCL submits that the connection was, in fact, given to respondent no.5 Ashis as long back as in the year 2011, at which juncture respondent no.6 had affirmed the affidavit.

At that point of time, admittedly respondent no.5 was one of the co-owners of the property.

As such, unless respondent no.5 applies for disconnection, the present petitioner has no *locus standi* to seek such disconnection of respondent no.5's connection.

Upon consideration of the submissions of parties, it is evident that a civil suit is pending at the instance of respondent no.5, where the present petitioner is a defendant and is suffering from a subsisting order of injunction protecting the possession of Ashis, that is, respondent no.5.

In such scenario, since the connection was given even prior to the partition deed and a *prima facie* case has been made out by the respondent no.5 to the effect that the entire property was not covered by the partition, there is no scope of directing the WBSEDCL to disconnect the electricity supply of Ashis, who is arguably one of the co-owners, at the behest of the petitioner.

Although learned counsel for the petitioner, after the conclusion of the hearing, sought an adjournment to produce a purported sale deed, the production of the same has no bearing on the issue at hand in view of the observations made above.

Moreover, since such adjournment is sought after the hearing being concluded, the same is refused at this juncture.

WPA 2527 of 2023 is, accordingly, dismissed on contest without any 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.)