

AD-10
Ct No.09
17.03.2023
TN

WPA No. 5482 of 2023

Najrul Islam Mallik
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Arunava Ganguly
.... for the petitioner

Ms. Susmita Chatterjee
.... for the WBSEDCL

Mr. Sudip Sarkar
.... for the private respondents

The petitioner's grievance is that due to obstructions raised by the private respondents, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is not being able to give electricity connection to the petitioner.

Learned counsel appearing for the WBSEDCL supports such contention.

Learned counsel appearing for the private respondents submits that there is a subsisting injunction order passed by a competent civil court in a pending suit between private parties. It is submitted that the civil court has restrained both parties, that is, the petitioner and the private respondents from changing the nature and character of the suit property

in any manner whatsoever. It is contended that in the event an electricity pole is installed for the purpose of giving the electricity connection to the petitioner, the same will tantamount to alteration of the nature and character of the property.

Learned counsel appearing for the petitioner controverts such claim and submits that the electricity pole, if required, shall be installed on the portion occupied by the petitioner and not on the portion of the private respondents.

The crux of the dispute is regarding the right, title and interest over the property where electricity pole, if any, is required to be installed for the purpose of giving connection to the petitioner.

However, it is beyond the parameters of the writ court to decide such issues. The law provides, particularly under the Works of Licensees Rules, 2006, that in the event of such disputes, it will be open to an aggrieved party to move the concerned District Magistrate to have the disputes resolved.

However, the said dispute cannot be sufficient to preclude the petitioner from exercising his right conferred under Section 43 of the Electricity Act, 2003.

Hence, WPA No. 5482 of 2023 is disposed of by directing the WBSEDCL to give a new electricity

connection to the petitioner as per his application, subject to compliance of all formalities by the petitioner, preferably within three weeks from the date of compliance of such formalities.

In the event any obstruction is raised by the private respondents and/or their men and agents, it will be open to the WBSEDCL personnel to approach the Officer-in-Charge, Haripal Police Station (respondent no.3 herein), who shall act on a server copy of this order and grant such assistance to the WBSEDCL personnel at the cost of the petitioner.

However, it is made clear that the right, title and interest of the petitioner and/or the private respondents shall not be affected or prejudiced in any manner whatsoever merely by virtue of electricity connection being given to the petitioner and it will be open to the competent civil court, where a litigation is pending, to decide all such issues independently and in accordance with law.

Furthermore, in the event the private respondents are aggrieved by the fact of an electricity pole being installed on their premises, it will be open to the said private respondents to approach the concerned District Magistrate to seek appropriate orders and a resolution of the disputes in that regard.

Nothing in this order shall prevent the District Magistrate, in such a case, from deciding all the issues involved independently and without being influenced in any manner by any of the observations made herein.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)