

4<sup>th</sup> April,  
2023  
(AK)  
04

**W.P.A 5684 of 2023**

Sri Kiran Sankar Mondal @ Kinkar Kunai  
Vs.  
The State of West Bengal and others

Mr. Tanmay Basu  
...for the petitioner.

Mr. Debjit Mukherjee  
...for the WBSEDCL.

Mr. Debjit Mukherjee  
Ms. Susmita Chatterjee  
...for the State.

Mr. Mobaidur Hossain  
...for the respondent no.9.

The petitioner argues that without obtaining any consent from the petitioner, who is the owner in respect of the property-in-question, the WBSEDCL gave electricity connection to the private respondent, installing the meter of the private respondent in the property of the petitioner.

When the petitioner made requests for disconnection of the supply to the private respondent, the WBSEDCL sat tight over the matter, in spite of several representations filed by the petitioner.

Learned counsel appearing for the WBSEDCL submits that the private respondent is in settled occupation of the property, for which he is entitled under Section 43 of the Electricity Act, 2003 to get an electricity connection.

Pursuant to such right of the private respondent, the petitioner gave electricity connection to the private respondent.

Since the private respondent is paying electricity charges regularly, no occasion has arisen to disconnect the supply of the private respondent.

Learned counsel appearing for the private respondent contends that there is a pending partition suit between the private parties at the behest of the private respondent, which is still pending.

That apart, learned counsel files a copy of an heirship certificate issued by the Pradhan of the local Gram Panchayat.

A photocopy of an information slip with regard to subsistence of the partition suit is also filed in court. Both such documents are kept on record.

The crux of the dispute is that the petitioner alleges that the private respondent is a local hooligan and is in forcible occupation of the property.

Such illegal occupation of the private respondent, it is submitted, does not entitle the private respondent to get an electricity connection at the premises.

Moreover, since the petitioner is the owner of the property, the meter could not be installed in favour of the private respondent without the consent of the petitioner.

The petitioner has further alleged that the petitioner has lodged complaint against the private respondent for

the latter's activities on the basis of which FIR was duly registered.

As a backlash, it is submitted, the partition suit has been filed by the private respondent.

Be that as it may, since the WBSEDCL has a *prima facie* satisfaction that the private respondent is in settled possession of the property, there cannot be any scope of depriving the private respondent of his right to get an electricity connection at the premises, irrespective of the legality of his possession or otherwise.

Mere pendency of a partition suit and/or a criminal complaint does not alter such legal position.

Hence, in the absence of any ground for disconnection of electricity supply within the scope of the Electricity Act and the connected Regulations, there is no occasion for directing disconnection of the electricity supply of the private respondent.

Accordingly, WPA 5684 of 2023 is dismissed without any order as to costs.

However, nothing in this order shall prejudice the rights and contentions of the parties either in the partition suit or in the criminal proceeding, if instituted.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

**(Sabyasachi Bhattacharyya, J.)**