

3rd April,
2023
(AK)
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W.P.A 7006 of 2023

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

Mr. Sk. Abu Abbas Uddin
Mrs. Nahid Rahman

...for the petitioner.

Mr. Sumit Ray

...for the WBSEDCL.

Learned counsel for the petitioners argues that the petitioner sought shifting of an electricity pole carrying a high tension overhead line of about 11KV, which is running over the petitioner's plot of land, to one of the extremities of his own land.

Initially, the WBSEDCL wrote to the petitioner that at the time of survey no proper demarcation of the land was available and the land was completely water logged and inaccessible.

Subsequently, during the dry season, the petitioner again gave a representation to the WBSEDCL to hold such inspection but the same has not yet been done.

Learned counsel appearing for the WBSEDCL submits that there are several difficulties in such shifting. First, the said pole is catering to the needs of numerous people of the neighbourhood for about thirty years.

It is further argued that the location to which the shifting is sought has a dispute regarding title.

Of course, such contentions are controverted by learned counsel for the petitioner.

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

Despite service, none appears for the respondent no.6, the Pradhan of the Masat Gram Panchayat.

Upon consideration of the dispute, it is seen that there are several components of the same.

First, a *prima facie* decision on the title of the property to which the electricity pole is sought to be shifted is necessary.

That apart, the mutual convenience and inconvenience of the people of the neighborhood as well as the petitioner, balanced with each other, as well as the expenditure involved in shifting such electricity pole, are required to be taken into consideration.

Since such a factual enquiry on evidence is beyond the purview of the writ jurisdiction, WPA 7006 of 2023 is disposed of by granting liberty to the petitioner to approach the concerned District Magistrate having territorial jurisdiction over the area where the connection has been sought to be shifted.

Upon such representation being made with a server copy of this order, the District Magistrate shall decide the issue in accordance with law upon giving adequate

opportunity of hearing to all concerned as expeditiously as possible, positively within eight weeks from the date of such representation being made.

It is made clear that the merits of the contentions of the parties have not been gone into and it will be open to the District Magistrate to decide all issues 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.)