

17th May,
2023
(AK)
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W.P.A 11608 of 2023

Sri Satya Narayan Singh
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

Mr. Prantik Ghosh
Mr. Prasad Bhattacharyya
Mr. Siddhartha Sarkar
Mr. Bitam Das

...for the petitioner.

Mr. Raj Kumar Basu

...for the WBSEDCL.

Mr. Subhrangsu Panda
Mr. Tirthankar Mukherjee
Ms. Madhurima Sarkar
Mr. Subhojit Samanta

...for the respondent nos.6 & 7.

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

Learned counsel for the petitioner submits that the petitioner has applied for a new electricity connection on the strength of his possession as recorded in an injunction order passed by a civil court in a suit filed by the petitioner.

The possession of the petitioner, it is argued, is on the basis of an agreement for sale executed by respondent no.6, the owner of the property, in favour of the petitioner.

Learned counsel appearing for the respondent nos.6 and 7 submits that the respondent no.7 has duly

purchased the property from the respondent no.6 and is the present owner of the property.

Hence, since the respondent no.7 has an objection to the petitioner taking any electricity connection there, the said connection ought to be refused to the petitioner.

It is further contended by learned counsel for the private respondents that the said respondents have already filed an application for vacating of the injunction order which is now pending.

Learned counsel further adds that if the petitioner is agreeable to pay the outstanding dues, the WBSEDCL can, in any event, restore the existing supply without giving a new connection to the petitioner.

As it appears from the injunction order annexed to the present application, the petitioner is enjoying an order of injunction against the private respondents from dispossessing the petitioner from the disputed property, which *prima facie* shows that the petitioner is in possession of the property at least for the present.

In view of such finding of a competent civil court, despite the pendency of a vacating application or any other challenge, as of today the right of the petitioner regarding possession has been *prima facie* established.

Hence, for the purpose of Section 43 of the Electricity Act, 2003, the petitioner is in settled occupation of the property and is entitled to get an independent electricity connection.

Insofar as the objection of the private respondents is concerned, the same can very well be ventilated in the pending civil suit between the parties.

Accordingly, WPA 11608 of 2023 is disposed of by directing the WBSEDCL to raise a quotation within a week from date on the basis of the application of the petitioner on the premise of the documents annexed to the present writ petition, by treating them to be sufficient *prima facie* proof of possession of the petitioner.

Upon such quotation being raised and the petitioner complying with all formalities, the new connection shall be given to the property in the name of the petitioner within a fortnight thereafter.

In the event the private respondents raise any obstruction, it will be open to the WBSEDCL personnel to approach the respondent no. 8, being the Officer-in-Charge of the Jetia Police Station, who will provide adequate police assistance to the WBSEDCL personnel at the cost of the petitioner for the limited purpose of giving such connection to the petitioner.

The police will be at liberty to remove any padlock or other hindrance, if put up by the private respondents to prevent the WBSEDCL from doing so.

However, it is made clear that nothing in this order shall prejudice the rights and contentions of the parties in the pending civil suit.

The electricity connection, when given, shall not create any special right or equity in favour of the petitioner which the petitioner otherwise does not have.

The parties as well as all concerned shall act on the server copy of this order, without insisting upon prior production of a certified copy.

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.)