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09.06.2023
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In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 11891 of 2023

Sri Ram Chowdhury
@ Sri Sri Chowdhury

-vs.-

The Chairman, West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Sanjoy Ghosh
...for the petitioner

Ms. Gopa Roy
..for the WBSEDCL

Learned counsel appearing for the petitioner submits that the petitioner is in occupation of the property as a permissive occupier under his mother, the proforma respondent no. 8.

However, respondents nos. 5 to 7, who are neighbours, object to the electricity connection being given to the petitioner at the premises in question.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) submits that an objection has been raised by the private respondent nos. 5 to 7 on the premise that the said respondents are in possession of the property by virtue of a lease deed and the petitioner is not in occupation of the property at all. Insofar as the petitioner is concerned, no proof of possession has been produced before the WBSEDCL.

Learned counsel appearing for the WBSEDCL further points out that a civil suit was filed by the proforma respondent no. 8.

Upon being enquired, it is revealed by learned counsel for the petitioner that a title suit, bearing Title Suit No. 168 of 2003, a copy of the plaint of which has been annexed to the writ petition, was filed by the mother of the petitioner and one Sree Chowdhury.

However, it has been admitted in the writ petition that the said suit was dismissed by the civil court on March 05, 2019, holding inter alia that the plaintiffs failed to establish title over the suit property and had nothing to show the actual possession of the plaintiffs over the suit property.

Hence, since the petitioner claims possession through proforma respondent no. 8, whose suit was dismissed inter alia on the finding that the proforma respondent no. 8 is not in possession of the property, it cannot be said under any stretch of the imagination that the petitioner is in settled occupation of the property.

Mere communication by the Senior Revenue Officer in Charge of the Office of S.D.L. & L.R.O., Asansol, cannot create a right or possession in favour of the petitioner in the teeth of the dismissal of the suit filed by the proforma respondent no. 8 by a competent civil court, as indicated above.

Hence, the petitioner has no *locus standi* to apply for an electricity connection, not being in settled occupation of the property.

As such, W.P.A. No. 11891 of 2023 is dismissed without, however, any order as to costs.

Urgent photostat-certified copies of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Sabyasachi Bhattacharyya, J.)