

ML-48
Ct No.09
02.01.2023
TN

WPA No. 12588 of 2021
IA No: CAN 1 of 2021

Sabita Biswas and others
Vs.
West Bengal State Electricity Distribution Co. Ltd.
and others

Mr. Shaunak Ghosh,
Mr. Anindya Sundar Das,
Mr. Paramesh Chakraborty

.... for the petitioners

Mr. Radhamohan Ray

.... for the WBSEDCL

Mr. Sudip Sarkar,
Mr. Krishna Pada Santra

.... for the applicants in
CAN 1 of 2021

Affidavits in opposition and reply filed in court
today be kept on record.

In Re: IA No: CAN 1 of 2021

Learned counsel for the applicants for addition of party submits that the applicants are necessary parties to the present writ petition. It is submitted that in a pending suit at the behest of the applicants, a competent civil court, that is, the First Court of Civil Judge (Junior Division) at Krishnanagar, Nadia passed an order of injunction restraining the principal defendants in the suit (including the petitioners) from creating any disturbance over peaceful possession of

the suit property of the plaintiffs (the present applicants) till a particular date. It is submitted that the said injunction order is still in force and precludes the relief sought by the writ petitioners in the present writ petition from being granted.

However, upon hearing learned counsel for the parties on the application for addition of party, it transpires that the present applicants have obtained an order of injunction from a civil court, although against the present writ petitioners, as regards the applicants' own property and not the property where the connection has been sought by the writ petitioners.

It is alleged by the applicants that the electricity wiring goes through the property of the proposed added respondents, with regard to which the suit is pending. However, such right of the proposed added respondents does not confer the status of being a necessary and proper party on the applicants for being impleaded as respondents in the present writ petition.

The present writ petition has as its subject-matter the alleged inaction of the Distribution Licensee to restore/repair the electricity wiring of the petitioners which is allegedly situated outside the premises housing the meter box of the petitioner.

Hence, there is no scope of adding the present applicants as respondents to the writ petition. However, it is made clear that the respective contentions of the parties in the suit have not been touched in the present order and it will be open to all the parties to urge their grievances before the competent civil court where the suit is pending.

In Re: WPA No. 12588 of 2021

It is argued by learned counsel for the petitioners that despite complaint on behalf of the petitioners, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) has not repaired the faults in the wiring installations through which electricity is supplied to the petitioners' premises, although the said fault lies outside the precincts of the petitioners' premises.

It is contended that as a Distribution Licensee, the WBSEDCL was duty-bound to undertake the necessary repairs.

Learned counsel appearing for the WBSEDCL, by placing reliance on paragraph no.13 of the affidavit-in-opposition used by the WBSEDCL today, submits that the specific stand of the WBSEDCL is that the consumer did not get a power supply at her premises due to a fault in their wiring installations. It

is the responsibility of the consumer to maintain their wiring installations on their own and WBSEDCL is not responsible in any way for not getting power supply due to fault of the consumer's wiring installation.

It has also been stated in paragraph no. 13 of the opposition that the WBSEDCL is responsible to ensure a steady power supply up to the main switch of the consumer and the same was ensured by the WBSEDCL up to the main switch of the consumer.

Since the specific stand of the WBSEDCL is that there is steady power supply till the main switch of the petitioners, there is no scope or occasion to direct the WBSEDCL to carry out the necessary repair works within the precincts of the premises and beyond the main switch, which falls within the domain of authority of the consumer and not the Distribution Licensee.

Hence, in the present case, it is for the petitioners to apply for appropriate orders before the competent civil court where a suit is pending between the petitioners and third parties to the present writ petition.

Hence, WPA No. 12588 of 2021 and IA No: CAN 1 of 2021 are disposed of by granting liberty to the petitioners to approach the competent civil court where a litigation is pending against the petitioners for

appropriate orders to carry out the necessary repairs to the wiring installations inside the petitioners' premises for the purpose of redressing the petitioners' present grievance.

If such an application is made, the civil court shall decide the same without being influenced in any manner by any of the observations made herein and in accordance with law, upon giving adequate opportunity of hearing to all the parties to the litigation.

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.)