

AD-12
Ct No.09
03.08.2023
TN

WPA No. 14204 of 2023

Sk. Altaf Hossain
Vs.
The State of West Bengal and others

Mr. Amitabha Ghosh
.... for the petitioner

Ms. Sangeeta Roy,
Mr. N. Roy
.... for the State

Ms. Gopa Roy
.... for the WBSEDCL

Mr. Saptarshi Chattopadhyay,
Mr. Rudraksha Chattopadhyay
.... for the respondent no. 7

The report filed by the State be kept on record.

The petitioner has challenged an order passed by the District Magistrate, which was decided on the basis of a previous direction of court.

Before the District Magistrate, a dispute arose regarding the petitioner seeking a new electricity connection in a joint property belonging to the petitioner as well as the private respondent. A partition suit is pending between the parties, where an order of injunction has been passed restraining the defendant/present writ petitioner from disputing the share of the plaintiff/private respondent over the suit

property. An inspection was also held regarding the property.

The District Magistrate, while observing that the writ petitioner has raised a one-storied construction as well as a meter room over the property, observed that since the partition suit was pending, it was beyond the authority of the District Magistrate to pass any direction.

However, such stand of the District Magistrate is disputed by the petitioner.

Learned counsel for the private respondent submits that the private respondent is prejudiced since the electricity line is sought to be given over the property in possession of the private respondent, which could create difficulties for the private respondent.

Heard learned counsel for all the parties.

It is cardinal that in respect of a joint property, it is deemed that each and every inch of the property is in occupation of all the co-sharers. However, even without proceeding on the premise of bare theory, in the present case, the petitioner, being a co-owner, has raised a one-storied construction as well as a meter room; as such, the petitioner is in actual settled physical possession of at least a portion of the property.

Even without disturbing or disputing the share of the private respondent in the property, there cannot be any bar in giving electricity connection to the petitioner, pursuant to Section 43 of the Electricity Act, 2003.

Insofar as the objection of the private respondent is concerned, the law mandates that a Distribution Licensee shall take care of the safety and security issues while giving a new connection. As such, it is expected that such stipulation of law shall be abided by by the Distribution Licensee in any event.

Hence, WPA No. 14204 of 2023 is disposed of by directing the WBSEDCL to give a new electricity connection to the petitioner at the meter room constructed by the petitioner, as expeditiously as possible, positively within a fortnight from date, or from compliance of formalities, whichever is later.

If any obstruction is raised from any quarter, the WBSEDCL personnel shall be at liberty to approach the respondent no. 6, that is, the Inspector-in-Charge, Chanditala Police Station, who will act on a server copy of this order and grant police assistance at the cost of the petitioner, if necessary by removing any padlock or other hindrance, if put up by any person to prevent the access of the WBSEDCL personnel.

However, the WBSEDCL, while giving such connection, shall ensure that the safety and security measures required in law are maintained. Moreover, nothing in this order and/or the electricity connection, as and when given to the petitioner, shall create any special right or equity in favour of the petitioner and the same shall be without prejudice to the rights and contentions of the private parties in the pending partition suit.

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.)