

AD-11
Ct No.09
12.07.2023
TN

WPA No. 15157 of 2023

Sakir Halder and another
Vs.
The State of West Bengal and others

Mr. Sandip Das

.... for the petitioners

Mr. Jagabandhu Roy,
Mr. J. Saha

.... for the State

Mr. Amitabh Shukla,
Mr. Prakash Ch. Pandey

.... for the respondent nos. 2 to 5

Learned counsel for the petitioners submits that the petitioners had to approach this court on a prior occasion seeking shifting of electricity poles running over the petitioners' property to somewhere else.

The brief background of the case is that the petitioners obtained the property-in-question by way of purchase. Thereafter, a suit was filed by an objector, seeking partition of the property on the allegation that the said plaintiff was the co-owner of the property. In the said suit, an injunction sought by the plaintiff was refused up to this court.

Subsequently, the petitioners' request for shifting of the electricity pole from his property was not carried out by the Distribution Licensee, despite

the petitioners having deposited the entire shifting charges as asked for by the Licensee.

The earlier order of the coordinate Bench dated March 07, 2019 is also relied on by the petitioners. Learned counsel for the petitioners submits that in the said order, the coordinate Bench had directed that the electricity lines over the writ petitioners' land shall be relocated by the Distribution Company within 15 days from the date of communication of the copy of the order.

It was further made clear in the order that the interest at the rate of 9% p.a. shall accrue to the petitioner on the said sum of Rs. 6,88,868/- from June, 2018 till the first bill raised on the writ petitioner and such interest shall be adjusted towards the electricity bills due and payable by the petitioner.

Learned counsel for the Distribution Licensee submits that serious objections are being raised from third parties whenever the shifting is sought to be done by the Distribution Licensee. Learned counsel also hands over copies of objections given in writing by the objectors, which are made part of the record.

It is submitted that the Distribution Licensee could not be represented on the last occasion when the order was passed by the coordinate Bench in W.P.

4567 (W) of 2019. It is further submitted that the objectors ought to be impleaded in the writ petition.

A bare perusal of the order dated March 07, 2019 passed in W.P. 4567 (W) of 2019 shows that the learned Single Judge specifically directed relocation of the electricity lines from over the writ petitioners' land within 15 days from the date of communication of the copy of the order. It is unfortunate that the Distribution Licensee, that is, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) took no steps in that regard within the said period. Out of the objections handed over in court, one is dated March 27, 2019 and the other June 27, 2023.

Insofar as the objection raised in March, 2019 is concerned, the copy handed over is a communication to the learned Advocate for the WBSEDCL by Operation and Maintenance, Baruipur Division of the WBSEDCL, wherein it was intimated that when the WBSEDCL personnel went for the relocation/shifting at the site, the workers faced tremendous physical objection from one Michujan Bewa and other local people in that regard. However, it does not appear that anything of that sort was either argued or recorded in the order dated March 07, 2019. That apart, no written objection has been cited by the WBSEDCL, of the contemporaneous period of passing

the order, which could have necessitated a reference to the District Magistrate at that stage. The subsequent objection referred in the letter dated June 27, 2023 is of recent origin and, as such, could not have necessitated a reference to the District Magistrate at the relevant juncture.

As such, there is no impediment in the WBSEDCL complying with the order of the coordinate Bench dated March 07, 2019, particularly in the absence of any written objection being cited for the relevant period.

Hence, WPA No. 15157 of 2023 is allowed, thereby directing the WBSEDCL to immediately shift/relocate the electricity lines running over the writ petitioners' land, positively within a fortnight from date. In the event any obstruction is raised from any quarter to the WBSEDCL personnel doing so, it will be open to the WBSEDCL personnel to approach the local police station for adequate police assistance in that regard. If so approached, the Inspector-in-Charge/Officer-in-Charge, as applicable, of the local police station shall act on a server copy of this order and grant such assistance to the WBSEDCL personnel at the cost of the petitioners, for the purpose of ensuring that the order of the coordinate Bench is carried out duly.

However, it is made clear that nothing in this order shall preclude any person having objection to such relocation to approach the concerned District Magistrate within the contemplation of the Works of Licensees Rules, 2006, if aggrieved by such relocation. If so approached, the District Magistrate concerned shall deal with the same in accordance with law and pass appropriate orders.

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.)