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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 15328 of 2023

Manjura Begum @ Manjura Bibi

Vs.

The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee,

Mr. Abhilash Chatterjee,

Mr. Saikat Dey

...for the petitioner

Mr. Pradip Kumar Mondal,

Mr. Parikshit Goswami

...for the State

Mr. Kanak Kiran Bandyopadhyay

...for the WBSEDCL

Mr. Rwitendra Banerjee,

Mr. Sandip Kundu

...for the private respondents

Learned counsel appearing for the petitioner submits that although orders were passed in a civil suit, filed by the private respondents with regard to their right to get an electricity connection over the suit property involved therein, the petitioner is not a party to the said suit and, as such, is not bound by any such order.

It is submitted that although the private respondent no. 7 has applied for an electricity connection, there are several alternative routes over which the connection can be given, even apart from the petitioner's property.

It is, thus, submitted that the Distribution Licensee be restrained from giving connection to the respondent no. 7 over the petitioner's property.

As rightly contended by learned counsel for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) as well as learned counsel appearing for the private respondent no. 7, the remedy provided in the Works of Licensees Rules, 2006 is that under Rule 3(1), first proviso thereof, if there is an objection by the owner or occupier of a building for such work being done, the Licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in this behalf for carrying out the works.

In the present case, no such permission has yet been sought by the Distribution Licensee.

Again, the second proviso indicates that if at any point of time, the owner or occupier of a building or land on which any works have been carried out, shows sufficient cause, the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government may by order in writing direct for any such works, support etc, to be removed or altered.

Instead of going into the rigmarole of embroiling the parties in two litigations, first directing the

Licensee to take permission and thereafter shifting the burden on the petitioner to raise an objection, delay could be obviated in the event the District Magistrate is directed to decide both the issues together.

Accordingly, W.P.A. No. 15328 of 2023 is disposed of by directing the WBSEDCL to refer the dispute in writing to the concerned District Magistrate for the purpose of obtaining permission to lay electricity line/cable over the property of the petitioner to give a connection to the respondent no. 7.

As and when such permission is sought, which will be done latest within a week from date, a copy thereof shall also be served by the WBSEDCL on the petitioner as well as the private respondents.

The District Magistrate, upon such application being made, shall give adequate notice to all concerned and give hearing to all the necessary parties on the issues involved. Thereafter, the District Magistrate shall decide the issues in accordance with law and pass necessary directions in respect of installation of the cable/line over or through the land of the petitioner and/or some alternative passage, in order to electrify the property of the private respondent no. 7.

The entire exercise shall be completed by the concerned District Magistrate as expeditiously as possible, positively within six weeks from the date of the application being made by the WBSEDCL.

Nothing in this order shall prejudice the rights and contentions of all the parties on the issues to be raised before the District Magistrate.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)