

19.10.2023
Item No.08
RP/AN
Ct. No.1

MAT 1405 of 2023
+
IA No.CAN 1 of 2023
Michu Jan Bibi
Vs.
Sakir Halder & Ors.

Mr. Habibur Rahaman
Mr. Jasika Alam
Mr. Archishman Singh
.....for the Appellant

Mr. Amitabh Shukla
Mr. Prakash Chandra Pandey
.....for the respondents no.3 and 7

Mr. Rajarshi Basu
Mrs. Monika Pandit
..... for State respondent

1. This intra-Court appeal is preferred by a third party against the order dated 12th July, 2023 passed in WPA 15157 of 2023. The said writ petition was filed by the respondents no.1 and 2 herein contending that the electricity distribution line, which is passing over the property of the appellant, should be shifted. Learned writ Court by the impugned order has allowed the writ petition and directed the WBSEDCL to immediately shift/relocate the electricity lines running over the writ petitioners' land within a time frame. In the same order the learned Single Bench has made it 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 matter in accordance with law and pass appropriate orders.

2. The appellant would contend that she was not heard in the matter and she was not impleaded as a party respondent in the writ petition. Apart from that there is also a partition suit pending before the Civil Judge, Senior Division, at Diamond Harbour. The writ petitioners have also been impleaded as defendants in the said suit. In such circumstances, the appellant ought to have been heard before the order directing relocation/shifting of the line was passed.
3. Learned advocate appearing for WBSEDCL would submit that the order and direction issued by the learned writ Court has been complied with.
4. In any event, the appellant should be heard in the matter. Therefore, we are of the view that the District Magistrate is directed to issue/pass appropriate orders. However, we find that the District Magistrate, South 24 Parganas is not a party to the writ petition. Therefore, we suo motu implead the District Magistrate, South 24 Parganas as 8th respondent in the appeal and the cause title be accordingly corrected. We direct the matter to be

placed before the District Magistrate, South 24 Parganas by the WEBSEDCL and notice be issued to the appellant as well as the writ petitioner and any other person, who is likely to be aggrieved on such shifting of overhead lines and on hearing the parties the District Magistrate shall pass an appropriate orders on merit and in accordance with law within a period of eight weeks from the date of receipt of the server copy of this order.

5. The appeal and the connected application are, thus, disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)