

27th September,
2023
(AK)
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W.P.A 23064 of 2023

Merison Impex Private Limited and another
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

Mr. Debapriya Chatterjee
...for the petitioners.

Mr. Srijan Nayak
Ms. Rituparna Maitra
...for the WBSEDCL.

Mr. Sayantan Bose
Mr. Shownak Mukhopadhyay
Mr. Sattik Rout
...for the respondent no.4.

1. Learned counsel for the petitioners submits that the petitioners are transferees and assignees in respect of the premises in dispute and sought for an independent electricity connection to cater to their portion of the premises.

2. It is submitted that due to resistance of the private respondents, the Distribution Licensee is not providing such electricity connection to the petitioners.

3. Learned counsel for the WBSEDCL submits that already a bulk connection of 500 KV is being supplied at the premises, which prevents the WBSEDCL, due to technical impediments, from providing individual electricity supplies to the occupants thereof.

4. Learned counsel for the private respondent no.4 contends that the said private respondent is in charge of the maintenance of the building.

5. There was a maintenance agreement between the petitioners and the respondent no.4, pursuant to which the petitioners were to pay certain charges.

6. The said agreement, it is pointed out from the relevant annexure to the writ petition, also contains an arbitration clause, which can be invoked by the petitioners if they so choose.

7. In terms of the clauses of the said maintenance agreement, in particular Clause 6.22, the respondent no.4 has the right to withdraw all services provided to the premises by giving 30 days' notice.

8. It is argued that the respondent no.4 has resorted to the said clause in view of non-payment of the due charges by the petitioners.

9. Learned counsel for the private respondents further submits that the petitioners have sub-let the premises in favour of third parties and are not even in occupation of the property.

10. Learned counsel for the petitioners in reply controverts the contentions of the private respondents and submits that the petitioners have an independent right to get electricity connection at the premises as occupants.

11. Further, the petitioners are agreeable to pay all charges which are actually due to the respondent no.4, but the respondent no.4 is seeking unjust enrichment at the expense of the petitioners, which has been protested to by the petitioners.

13. The gamut of the dispute between the petitioners and the private respondent no.4 is absolutely civil in nature.

14. That apart, there is an arbitration clause in the maintenance agreement between the said parties. Hence, the relief of the petitioners in the present context, even with regard to the supply of essential services, has to be routed through the maintenance agreement between the parties.

15. Such legal issues have to be creased out before a proper forum, either before an arbitrator or before the competent civil court, and cannot be decided within the limited conspectus of the present writ petition.

16. Insofar as the right of the petitioner as an occupant to get electricity supply is concerned, the same, in the present case, is circumscribed by the alleged rights of the respondent no.4 as well.

17. Moreover, since the WBSEDCL has taken a specific stand that it is technically not feasible to give further individual connections to the occupants of the premises in view of existence of a bulk supply to the same, the

service provider cannot be compelled, overriding the issue of electrical and fire hazard, to give such connection to the petitioners.

18. In such view of the matter, WPA 23064 of 2023 is disposed of by granting liberty to the petitioners to approach the appropriate forum, be it the arbitrator, the competent civil court or the appropriate court under Section 9 of the Arbitration and Conciliation Act, 1996, to ventilate the petitioners' grievances with regard to the essential services at the premises-in-question.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)