

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 24926 of 2023

Ramesh Kumar Jha
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Kamalesh Bhattacharyay,
Mr. Tapas Chatterjee
...for the petitioner

Mr. Sumit Ray
...for the WBSEDCL

Mr. Nilotpal Chatterjee
...for the respondent no. 3

Mr. P.K. Mukherjee,
Mr. Debanik Banerjee,
Mr. Akash Ganguly
...for the respondent nos. 5 and 6

1. Heard learned counsel appearing for the parties.
2. The petitioner claims that the petitioner is the owner and occupier of the property-in-dispute, but is not getting electricity connection from the West Bengal State Electricity Distribution Company Limited (WBSEDCL) due to resistance put up by a local club, which is sponsored by an M.L.A and Minister, who is having sway over the issue.
3. However, learned counsel appearing for the respondents, including the District Magistrate as well

as the WBSEDCL and the private respondents, argue that two suits are pending at present between the petitioner and the Niva Park Housing Complex Association.

4. The subject matter of the suit of the petitioner is the petitioner's alleged title in respect of the property, whereas that of the Niva Park Housing Complex Association is a challenge to the title deed of the petitioner and to the alleged possession of the petitioner as recorded in the purported records of rights.

5. The matter was moved previously before this Court when the writ petition was disposed of by relegating the parties to the concerned civil court where the suits are pending. However, a challenge was preferred thereto by the writ petitioner. In appeal, the learned Division Bench referred the matter to the District Magistrate for an adjudication of the issue under the Works of Licensees Rules, 2006.

6. Upon hearing the parties pursuant to the said direction of the Division Bench, the District Magistrate has now come to a finding that the matter is pending before the civil court and upon consideration of the relevant facts, submissions and objections as well as site inspection report submitted by DE & SM of Boral CCC, WBSEDCL and field enquiry report submitted

by BL & LRO, Kolkata, a factual finding has been arrived at that the premises identified by the appellant therein (present writ petitioner), is physically possessed by Niva Park Association which is already electrified vide Meter No. IPG068103.

7. It was observed by the District Magistrate that though it is evident from the record of rights submitted by the petitioner that a portion of Plot no. 584 is recorded in his name, such recording would not by itself vest good title in favour of Ramesh Kumar Jha as the issue of title in favour of Ramesh Kumar Jha in respect of suit land is sub-judice before the competent civil court having jurisdiction.

8. Thus, the Magistrate went on to observe that the petitioner is not entitled to electricity at the present juncture particularly, citing the pendency of suits before the civil court.

9. It transpires from a perusal of the order of the District Magistrate that the same is sufficiently well-reasoned and takes note of all the germane materials on record, including not only the site inspection report of the WBSEDCL but the enquiry report submitted by the BL & LRO as well.

10. After such careful scrutiny, the observation of the Magistrate was, in consonance with the WBSEDCL report, that the property-in-question is being

physically possessed by Niva Park Association, which is already enjoying an electricity meter in its name.

11. Thus, there is no occasion for the petitioner to have established his physical possession in respect of the property sufficient to get electricity connection under Section 43 of the Electricity Act, 2003.

12. In any event, the matter is sub-judice before the competent civil court and cannot be pre-decided, more than that it has been done by the District Magistrate pursuant to Division Bench Direction, at this stage.

13. Hence, I do not find any illegality or irregularity in the order of the District Magistrate.

14. In such view of the matter, there is no scope of interference in the writ petition.

15. Accordingly, W.P.A. No. 24926 of 2023 is dismissed on contest, without, however, any order as to costs.

16. A copy of the report filed in court today by learned counsel for the District Magistrate be kept on record.

17. 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.)