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**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri**

**MAT 16 of 2023
Sanjay Dey
Vs.
WBSEDCL & Ors.**

Mr. Bhaskar Roy Mahasoi,
Mrs. Madhushri Dutta.

...for the Appellant.

Mr. Sudipta Kanta Bhowmik,
Mr. Anirban Banerjee.

...for the WBSEDCL.

Mr. Momenur Rahman,
Mr. Bikash Singha.

...for the Respondent/Writ Petitioner.

1. By consent of the parties, application being CRAN 1 of 2023 is treated as on day's list and taken up for hearing along with the appeal.

2. Appellant had purchased a plot of land in 2021. Alleging that the writ petitioner/respondent No.5 is in illegal possession of the land, he instituted a civil suit being Title Suit No.521 of 2022 which is pending by and between the parties. An order of status quo was passed in the suit. At this stage, writ petitioner/respondent No.5 approached the learned Single Judge praying for a direction upon the respondent electric Company to supply electricity to his house situated on the suit land. Learned Single Judge by the impugned order dated 01.02.2023, inter

alia, held that the writ petitioner/respondent No.5 was in settled possession and was entitled to electric connection. The appellant was not made a party respondent in the proceeding.

3. Being aggrieved by the said order, he has sought leave to prefer the appeal. Leave to prefer the appeal against the said order is granted.

4. Learned Advocate for the appellant submits petitioner is a trespasser and no electric connection ought to be given to him through his land.

5. Learned Advocate for the respondent electric Company contends there is no other alternate way to supply electricity to the house of the writ petitioner/respondent No.5.

6. We have considered the rival submissions at the Bar. It is admitted that the writ petitioner/respondent No.5 is in settled possession of the suit land. An order of status quo has also been passed with regard to his possession in the civil suit instituted by and between the parties.

7. Under such circumstances, it cannot be said that he is a rank trespasser. Electricity is an essential service and denial of such service impacts the fundamental right to life of the writ petitioner/respondent no.5. It is the statutory duty of the electric Company to provide electric energy to every consumer within its area.

8. In view of the above, we find no fault with the direction of the learned Single Judge to supply electricity to the writ petitioner/respondent No.5.

9. With regard to the grievance of the appellant that the electric supply is to be effected through his land, we gave opportunity to the said appellant to propose an alternate route to supply electricity. In spite of such opportunity, appellant is unable to give any counter proposal.

10. In the absence of any alternate route, we hold that electric supply to the writ petitioner/respondent No.5 has to be effected through the land of the appellant and the latter shall grant permission to supply of electricity to the house of the writ petitioner/respondent No.5 through his land.

11. Appellant shall not create any obstruction or raise any objection to the supply of electric energy to the writ petitioner/respondent no.5 and in the event any obstruction is raised, police authorities shall take appropriate steps for implementation of the order.

12. However, we clarify that electric supply through the land of the appellant to the writ petitioner/respondent no.5 shall not create any right or equity in the latter's favour in the pending proceeding or any other proceeding that may be instituted by and between the parties. It shall also be open to the appellant in the event he procures a

decree against the writ petitioner/respondent no.5 to seek disconnection and claim appropriate damages in accordance with law arising out of loss/injury, if any, suffered by him due to supply of electricity through his land to the writ petitioner/respondent No.5.

13. With this clarification, the appeal is disposed of.

14. In view of disposal of the appeal, application being CRAN 1 of 2023 is also disposed of.

(Apurba Sinha Ray, J.)

(Joymalya Bagchi, J.)