

D/L.28.
March 11, 2024.
MNS.

WPA No. 3008 of 2024

Sonu Bajpai
Vs.
State of West Bengal and others

Mr. Sabyasachi Chatterjee,
Mr. Omar Faruk Gazi,
Mr. Dipankar Das,
Mr. Kiron Sk.

... for the petitioner.

Mr. Gourav Das,
Ms. Oindrila Chatterjee

...for the State.

Ms. Susmita Chatterjee

...for the WBSEDCL.

Mr. GoutaDey,
Mr. Prateep Bera,
Ms. Ankita Ghosh,
Mr. Ankan Mondal

...for the respondent no. 6.

1. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner has claimed an electricity connection in the petitioner's name at the disputed property. Due to resistance by the private respondent, it is alleged, such connection is not being given.
3. Learned counsel for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) hands over a set of written instructions, which indicate that certain details

are to be furnished by the petitioner. Among others, the WBSEDCL has insisted upon way-leave permission and land ownership documents, which are *de hors* the law.

4. However, learned counsel for the private respondent submits that the private respondent's predecessor-in-interest was a partner with the petitioner in a partnership business being run from the premises-in-question. After the demise of the predecessor-in-interest of the private respondent, the partnership stands dissolved, as per Section 42 of the Partnership Act as well as Clause 13 of the partnership deed, a copy of which has been annexed to the writ petition.
5. It is submitted that after the dissolution of the partnership, the petitioner does not have any independent right to carry on the business and seek electricity connection for such purpose.
6. That apart, the WBSEDCL has also raised an allegation regarding the previous electricity meter having been stolen, for which the WBSEDCL has already lodged a complaint with the police.
7. Insofar as the stolen meter is concerned, it is for the appropriate law enforcement agency to

take steps in that regard, since the complaint has already been lodged by the WBSEDCL.

8. Regarding the other aspect, admittedly the petitioner has been running the business in a partnership with the predecessor-in-interest of the private respondent who is now deceased.
9. At present, as per the position of law and also as per the partnership deed, it appears *prima facie* that the partnership stands dissolved.
10. Be that as it may, the position of law is settled that a person in settled occupation of a property, irrespective of the legality of such possession, is entitled under Section 43 of the Electricity Act, 2003 (2003 Act) to get independent electricity connection at the premises in his or her own name.
11. In the present case, a suit has been instituted by the petitioner, which is now pending. However, the same cannot be an impediment to the petitioner getting electricity connection. That apart, the petitioner has obtained an injunction order in the suit protecting the petitioner's peaceful possession of the premises. Moreover, mere getting of an electricity connection does not create any special right or equity in favour of a person.

12. Accordingly, the petitioner is entitled to get an electricity connection in the petitioner's own name at the premises.

13. Hence, WPA No. 3008 of 2024 is allowed, thereby directing the WBSEDCL to give electricity connection to the petitioner upon the petitioner complying with all formalities and making due payments, without insisting upon way-leave permission and land ownership documents.

14. Such connection shall be given within a fortnight from the date of compliance of such formalities by the petitioner.

15. In the event any obstruction is raised by the private respondent and/or his men and agents in doing so, the WBSEDCL personnel will be at liberty to approach the respondent no. 5, that is, the Officer-in-Charge, Newtown Police Station, for adequate police assistance, which will be given by respondent no. 5 by acting on a server copy of this order upon police help costs being deposited by the petitioner.

16. If need be, for such purpose, the police authorities shall be free to remove any padlock, hindrance and/or other obstacle for the limited purpose of giving access to the WBSEDCL personnel to the existing meter

board position from where the electricity connection shall be given to the petitioner.

17. It is however made clear that as and when connection is given, it be without prejudice to the rights and contentions of the parties in the civil litigation or otherwise and shall not create any special right or equity in favour of the petitioner which the petitioner otherwise does not have in law.

18. There will be no order as to costs.

19. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)