

03.07.2024
Sl. No.8(DL)
srm

W.P.A. No. 3264 of 2024

Rafique Middya & Anr.

Versus

**The Chairman, West Bengal State Electricity
Distribution Company Limited & Ors.**

Mr. Ayan Mitra

...for the Petitioners.

Mr. Pinaki Bhattacharya,
Ms. Ankita Tewari

...for the State-respondents.

Mr. Kanak Kiran Bandyopadhyay

...for the WBSEDCL.

Mr. Prasun Dutta,
Mr. Anant Kumar Shaw,
Mr. Partha Ray,
Mr. Tanmay Mukherjee,
Mr. Mainak Ganguly,
Mr. Souvick Das

...for the Respondent Nos.4 & 7.

Mr. Susil Kumar Gupta

...for the Respondent No.6.

1. The petitioners allege that the West Bengal State Electricity Distribution Company Limited, especially the Station Manager Jaladhulagori Customer Care Centre, Howrah, refused to remove the electricity connection, which was granted to the respondent Nos.4 and 7.
2. The petitioners claim to be the landlords. The petitioners filed a suit for eviction. Initially an ad interim order was

passed directing the parties to maintain *status quo* as regards nature, character and possession. The said ad interim order was made absolute. The suit was dismissed.

3. The petitioners preferred a first appeal before the Hon'ble Division Bench of this Court. Along with the said appeal, the petitioners filed an application for injunction being CAN 5373 of 2018. CAN 5373 of 2018 was disposed of directing the parties to maintain *status quo* with regard to nature, character and possession of the suit premises. Such order was passed in 2020. Records reveal that the connection was given in 2002. Neither in the suit nor before the High Court had the petitioners ever expressed any grievance with regard to such connection.
4. The petitioners now allege violation of the order of *status quo* passed by the High Court. Although, the grievance with regard to the electricity connection granted to the respondent Nos.4 and 7 was already available when the petitioners moved the High Court and CAN 5373 of 2018 was disposed of, the prayer for disconnection/removal of supply line was not made. Such prayer is now barred by the doctrine of constructive *res judicata*.
5. There is another angle, i.e., *status quo* as regards nature, character and possession does not indicate that there is an

injunction upon the distribution company from granting electric supply to any person in occupation. Moreover, the eviction suit against the respondent Nos.4 and 7 has failed and admittedly the respondents are in possession. Such connection will always be subject to the pending appeal.

6. Under such circumstances, the writ petition is disposed of without any interference.
7. There shall be no order as to costs.
8. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)