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03.04.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 5238 of 2024

Surendra Kumar Gupta

Vs.

State of West Bengal & Ors.

Mr. Dyutiman Banerjee,

Mr. Arnab Sinha,

Mr. Vishal Mallick

... for the petitioner

Mr. Kanak Kiran Bandyopadhyay

...for the WBSEDCL

Mr. Md. Mansoor Alam

...for the State

1. Despite service, none appears for the private respondent.
2. Affidavit of service filed today be kept on record.
3. The petitioner contends that the petitioner purchased the vast majority of the property-in-question in the year 2015 by a registered sale deed, which is annexed to the writ petition. In the year 2020, the private respondent also claims to have purchased a miniscule portion of the same property.
4. It is contended by the petitioner that the petitioner is in occupation of the property and sought electricity connection. However, the West Bengal State Electricity Distribution Company

Limited (WBSEDCL) has raised an objection on the footing that there is an existing service connection at the premises found in use by the petitioner and the petitioner has to apply for change of name in respect of the meter.

5. Learned counsel for the WBSEDCL contends that the WBSEDCL found on inspection that the petitioner himself has been enjoying electricity from the existing connection, which is in the name of the private respondent. As such, for the same premises, a different connection cannot be given.

6. It transpires from the documents annexed to the writ petition and the submission of the parties that the petitioner holds a purchase deed, which is prior in point of time than the private respondent's deed. As such, it cannot be gainsaid that the petitioner has a prima facie better title than the private respondent in respect of the property.

7. Moreover, the petitioner has obtained an order of injunction against a third party (not the private respondent) in respect of the self-same property from a competent civil court, which is annexed at page 72 (annexure P-7) of the writ petition. Such injunction order prima facie shows that the petitioner is in occupation of the property. Even the WBSEDCL is not disputing the occupation of the petitioner but raises a question as to whether

two different connections can be given at the same premises. It is also the allegation of the WBSEDCL that the petitioner himself has been using electricity from the existing meter.

8. Be that as it may, there is no direct nexus between the petitioner and the private respondent inasmuch as they claim title and possession to the property-in-question on the basis of different documents altogether. Hence, the claim of tile and possession of the petitioner is independent from that of the private respondent. Thus, there is no reason why a metered connection cannot be given to the petitioner independently in the name of the petitioner from the existing service connection at the premises-in-question.

9. It is, however, obvious that such connection, even if given, cannot create any special right or equity in favour of the petitioner, which the petitioner, otherwise, does not have in law.

10. The contention of the WBSEDCL as to not being able to give a new connection to the petitioner because the petitioner is using electricity from the same premises is negated by the fact that the petitioner claims a right independent from the private respondent in respect of the property.

11. In such view of the matter, W.P.A. No. 5238 of 2024 is disposed of by directing the WBSEDCL to

give a separate and independent metered connection from the existing service connection at the premises to the petitioner subject to the petitioner complying with all due formalities in that regard within a fortnight from such compliance being made.

12. If prevented, the WBSEDCL shall be at liberty to approach the local police station for adequate police assistance, which will be rendered at the cost of the petitioner, if necessary, by removing any padlock or other hindrance to facilitate the access of the WBSEDCL personnel.

13. Report filed by the State be kept on record.

14. There will be no order as to costs.

15. 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.)