

D/L.13.
April 25, 2024.
MNS.

WPA No. 8594 of 2024

Partha Pratim Banerjee
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Amitava Mukherjee,
Ms. Arpita Saha

... for the petitioner.

Mr. Sujit Sankar Koley

...for the WBSEDCL.

Mr. Gaurav Purkayastha,
Ms. Anju Chakraborty

...for the private respondent nos. 6 & 7.

1. Learned counsel for the petitioner contends that the petitioner has filed a civil suit against the private respondents. It is claimed that the petitioner had purchased the subject property by certain deeds. However, subsequently it was found that the deeds were defective, for which a rectification of the deeds was sought in the suit.
2. In the said suit, a status quo order in respect of nature, character and possession as well as alienation in respect of the suit property was passed in favour of the petitioner.
3. Learned counsel for the petitioner argues that in violation of the said *status quo* order, the private respondents have taken an electricity

connection at the premises, for which an application under Order XXXIX Rule 2A of the Code of Civil Procedure is now pending. Moreover, the petitioner complains that the shifting of the electricity connection of the private respondents was unlawful.

4. In a comprehensive report given by a Commission set up by the West Bengal State Electricity Distribution Company Limited (WBSEDCL), it was categorically found that the shifting of the electricity connection of the private respondents was done in an unauthorized manner. Appropriate action has also been recommended against the concerned Station Manager in the said report.
5. Thus, the petitioner seeks a disconnection of the electricity supply given to the private respondents in such unauthorized manner.
6. Learned counsel for the WBSEDCL argues that in view of the report of the WBSEDCL itself, it is clear that the shifting was done in unauthorized manner and the WBSEDCL has done its duty in recommending strong action against the Station Manager, for which steps have been taken.
7. It is the stand of the WBSEDCL that although the private respondents had an electricity connection in 2015, the same was in respect

of different premises. The shifting to the subject premises was unauthorized.

8. Learned counsel for the private respondents disputes the contentions of the petitioner and argues that even in the injunction order, the trial Judge has not found that the plaintiff/present writ petitioner is in possession of the property.

9. It is argued that as per plaint itself, the deed which the plaintiff relies on is defective and does not depict the subject property of which the private respondents are in occupation since long. It is further argued that undisputedly the private respondents had been in occupation of the property and in a different portion of the property, the electricity connection-in-question was initially being enjoyed. Subsequently, the same has been transferred to the subject plot.

10. Upon hearing learned counsel for the parties and perusal of the records, it is evident that even as per the Committee constituted by the WBEDCL, it is clear that the shifting of electricity connection to the subject premises is unauthorized.

11. The original location of the electricity connection of the private respondents was elsewhere, as reflected in the said report.

Hence, *prima facie*, the shifting of the electricity connection of the private respondents to the subject premises was unauthorized.

12. However, the very fact that the WBSEDCL admits that there was an unauthorized shifting also shows that the private respondents did have an existing connection, although elsewhere.

13. Thus, at this juncture, a direction for disconnection simpliciter would not be appropriate.

14. What is required to be done is that the unauthorized shifting done by certain elements, for which the WBSEDCL disowns responsibility, has to be rectified by shifting back the electricity connection to the original location of the private respondents, where the same was enjoyed by the private respondents.

15. Insofar as the possession of the property is concerned, the *status quo* order passed by the Civil Court discloses precious little in that regard.

16. Thus, at this juncture, it cannot be ascertained conclusively as to who among the private parties, if at all, are in occupation of the subject plot. The same will, of course, be the

subject matter of adjudication in the civil suit, which is pending before the civil court and it would be best left to the civil court to decide the issues and that the writ court cannot come to any conclusion in that regard.

17. In view of the above observations, it is for the WBSEDCL to shift back the electricity connection of the private respondents to its original location. Such shifting charges shall be borne by the private respondents.

18. Accordingly, WPA No. 8594 of 2024 is disposed of by directing the WBSEDCL, upon proper compliance of all formalities by the private respondents, which shall be done by the private respondents within a fortnight from date, to shift the connection pertaining to Meter No. L4233822 in the name of the private respondents at the subject premises to its original location.

19. The WBSEDCL shall, within three days from date, raise a quotation to the private respondents indicating the shifting charges to be borne by the private respondents.

20. It is made clear that nothing in this order touches upon the merits of the contentions of the parties in the pending civil suit and the suit will be decided in accordance with law.

21. There will be no order as to costs.

22. 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.)