

D/L.14.
April 23, 2024.
MNS.

WPA No. 9265 of 2024

National Bedding Store and others
Vs.
The West Bengal State Electricity
Distribution Company Limited and others

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K. R. Ahmed,
Mr. Rudranial Das,
Mr. Tapas Chatterjee,
Mr. Soumava Sntra

... for the petitioners.

Mr. Kanak Kiran Bandyopadhyay

...for the WBSEDCL.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Abhirup Halder,
Mr. Anirban Saha Roy

...for the private respondent no. 4.

1. The petitioners contend that they are tenants in respect of the property-in-dispute regarding which the petitioners filed a suit and obtained an ad interim order of injunction. Subsequently, in a Miscellaneous Appeal against the same, the order was stayed, prompting the petitioners to challenge such stay order before this court in a revisional application, which was ultimately allowed, setting aside the stay order.
2. Ultimately, the injunction order restraining the private respondent/defendant in the suit from

disturbing the possession of the petitioners in respect of the property has been upheld in Miscellaneous Appeal.

3. It is also argued that in the meantime the private respondent sought for demolition of the property and moved the appropriate Bench of this Court for getting an order of police help in that regard. The said writ petition was also turned down.
4. Subsequently when the petitioners sought new electricity connection in view of the private respondent having surrendered his previous connection, the Distribution Licensee, that is, the WBSEDCL was willing to give such connection and raised an offer letter but such connection could not be given to the petitioners due to obstruction by the private respondent no. 4.
5. Learned counsel appearing for the WBSEDCL hands over a communication apparently made by it to the petitioners wherein it has been insisted that the petitioners must produce way leave permission as per Format-A, proper NOC of land owner, proper land documents and valid trade licence to get such connection.
6. Learned counsel for the private respondent no. 4 contends that although initially an order of ad interim injunction was obtained by the

petitioners, the fact of the situation is that the building being more than 200 years old has crumbled down of its own and there is no structure worth being called a building on the premises as of now.

7. As such, it is argued that there is no scope of giving any electricity connection to the petitioners.
8. That apart, both learned counsel for the WBSEDCL and the private respondent point out that the trade licence produced by the petitioners had expired long back.
9. Learned counsel for the private respondent also relies on certain discrepancies in the names and addresses of the proof of possession, including a purported rent receipt and a voters' identity card, to highlight the fact that the petitioners may not be in possession of the property.
10. Due to the very fact that a competent civil court has passed an order of injunction protecting the petitioners' possession and the same has been affirmed by the Miscellaneous Appellate Court, it cannot be doubted that the petitioners are in occupation of the property. Thus, as of today, the petitioners are in settled occupation of the subject property irrespective of the veracity of the documents produced by

the petitioners. The lawfulness of such possession shall undoubtedly be decided in the suit; however, it is not a relevant factor in grant of electricity.

11. Insofar as the WBSEDCL is concerned, it has already raised an offer letter, thereby intimating its primary consent to give electricity connection to the petitioners. The WBSEDCL, however, raises certain issues insofar as purported requirement of the petitioners to produce certain documents is concerned. Yet, none of the documents which have been insisted upon by the WBSEDCL are required for the following reasons:

Way leave permission and proper NOC of landowner cannot, in any event, be obtained in the present case in view of the pending litigation between the respondent no. 4 and the petitioners, who are landowner and occupiers respectively.

12. Moreover, the language of Section 43 of the Electricity Act, 2003 (2003 Act) does not afford any scope for the Distribution Licensee to insist upon the same, since either an owner or an occupier, in their own rights, can claim electricity connection at a premises. For similar reason, land documents are also not required to be produced by the petitioners.

13. Learned counsel for the WBSEDCL seeks to clarify that by “land document” it meant tenancy agreement which is not also required at all, since it is not for the WBSEDCL to decide whether the petitioners are tenants or even if they are in ‘lawful’ occupation; since, while in settled occupation, a person in possession of a property is entitled to get electricity connection under Section 43 of the Electricity Act, 2003.

14. Insofar as valid trade licence is concerned, the probable justification of the WBSEDCL in insisting upon production of the same is that the connection sought is a commercial connection. However, it is seen that at one point of time, the petitioners had a trade license, thus establishing that at the petitioners at least have had experience of running a trade at some point o time. Irrespective of the fact that the petitioners have or have not a current trade licence, it may very well be that a person seeking to establish a business/shop/trade, for such purpose, seeks to have a commercial connection, upon getting which the said person shall commence the business. It is not the lookout of the WBSEDCL to ascertain whether there is already a running business

merely for the purpose of giving commercial connection to a person.

15. What the Distribution Licensee is to ascertain is that the petitioners are in occupation of the property, which in the present case has been held to be the case.

16. Thus, the insistence of the WBSEDCL on the documents as indicated in the written communication filed in court today is of no relevance or consequence.

17. Accordingly, WPA No. 9265 of 2024 is allowed on contest, thereby directing the WBSEDCL to give a new electricity connection to the petitioners at the premises-in-question within a fortnight from date or from the compliance of formalities, whichever is later.

18. In the event any resistance or obstruction is offered by the private respondent and/or his men and agents in doing so, the WBSEDCL personnel shall be at liberty to approach the respondent no. 3, that is, the Inspector-in-Charge, Contai Police Station who, by acting on a server copy of this order, shall grant such assistance to the WBSEDCL personnel at the cost of the petitioners, if necessary removing any hindrance or padlock while doing so.

19. It is, however, made clear that nothing in this order shall prejudice the rights and contentions of the parties in the pending civil suit and/or confer any special right or equity on the petitioners, which the petitioners otherwise do not have in law.

20. There will be no order as to costs.

21. 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.)