

S/L 13
16.07.2024
Court. No. 9
Suvayan

WPA 9453 of 2024

Sayed Ahmed Laskar
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Soujanya Bandyopadhyay
...for the Petitioner.

Mr. Sumit Ray
...for the WBSEDCL.

Ms. Munmun Ganguly
Ms. Subhra Nag
...for the State.

Mr. Sounak Bhattacharya
Mr. Chandra Nath Sarkar
Mr. Sounak Mondal
...for the respondent no. 7.

1. The petitioner is aggrieved by an order passed by the District Magistrate directing the licensing company to effect new connection to the respondent No. 7 by laying underground cables beneath the common passage. The District Magistrate also directed that upon grant of such connection and laying of the cables, the passage shall be restored to its original position and no damage shall be caused to the property of the petitioner.

2. The petitioner contends that even if the underground cables goes underneath the passage, the passage belongs to the petitioner and compensation should be payable to the petitioner. The High Court had observed in an earlier round of litigation that the petitioner would be entitled to compensation if it was found that the petitioner's land was being utilized for grant of such connection.

3. Learned Advocate for the respondent No. 7 submits that the common passage is used by all the villagers.

4. Learned Advocate for the District Magistrate submits that the High Court was of the opinion that compensation would be payable only if the connection crossed through the property of the petitioner, i.e., for any inconvenience that may be caused to the petitioner. Here, the cables were fixed under the ground and as such the surface of the land of the petitioner, did not sustain any damage. It is also stated that the passage can never be used for any other purpose.

5. It is submitted by the West Bengal State Electricity Distribution Company Limited that the order of the District Magistrate has been complied with and connection has been effected.

6. The petitioner, however, disputes the contentions of the respondents, *inter alia*, stating that the record of rights would reveal that the said alleged passage has been classified as a 'khamar' and not as a pathway for villagers.

7. Having heard rival contention of the parties, this Court finds that disputed questions of the fact cannot be decided by this court. The District Magistrate, on the basis of available information was of the opinion that laying of underground cables beneath the common passage and restoration of the passage, were the safest way to effect the supply to the respondent No.7 and such process would be beneficial for the petitioner as his land would remain intact. I do not find, *prima facie*, any apparent illegality in the order.

There is an alternative remedy available to the petitioner under Rule 3(3) of the Works of Licensees Rules, 2006.

8. The petitioner is at liberty to avail of such remedy in accordance with law.

9. Accordingly, the writ petition is disposed of.

10. However, there will be no order as to costs.

11. Parties to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)