

12.08.2024
Sl. No. 77
g.b.
Court No.09

WPA 15076 of 2024

Biswanath Pal & Ors.
-Vs-
The State of W. B. & Ors.

Mr. Sujit Bhunia
Mr. Sudip Banerjee
Ms. Keya Banerjee
.....For the Petitioners
Ms. Pampa Dey Dhabal
Mr. Krishna Deo Das
Ms. Sangita Banerjee
Mr. Biswarup Chatterjee
.....For the Respondent Nos.7
Mr. Bimalendu Das
Mrs. Barnali Gupta
.....For the State

The petitioners are aggrieved by the decision of the District Magistrate, Bankura. The West Bengal State Electricity Distribution Company Limited was directed to grant electric supply in favour of the petitioners along an alleged pathway, without causing obstruction to the free movement of others. The West Bengal State Electricity Distribution Company Limited was also allowed to take police assistance. The petitioners claim to be the owners of the said land through which the proposed connection is to be drawn. The petitioners resisted the grant of connection and a writ petition was filed by the respondent no.7. The writ petition was disposed of by relegating the matter to the District Magistrate, Bankura under the

Works of Licensee Rules. Aggrieved by such order, an appeal was preferred by the respondent No.7.

The Division Bench directed that the District Magistrate, Bankura must comply with the direction of the learned Single Judge, in its letter and spirit.

Upon hearing all the parties, the learned Single Judge had directed as follows:

“In such view of the matter, WPA 8992 of 2022 is disposed of by directing the petitioner to refer the dispute to respondent no.2, that is, District Magistrate at Bankura at the earliest.

Upon such reference being made, the District Magistrate shall, upon due notice to all concerned, including the Distribution Licensee, the private respondent and the petitioner, and after granting adequate opportunity of hearing, adjudicate the dispute in accordance with law, preferably within two months from the date of reference to the District Magistrate.

It is further clarified that, in the event the District Magistrate so deems fit, the District Magistrate will be at liberty to seek an appropriate report in respect of the respective rights and contentions of the private parties from the Block Land and Land Reforms Officer (BL & LRO).”

Accordingly, the District Magistrate, Bankura passed the order impugned in compliance with the order of the Hon'ble Division Bench. The District Magistrate, Bankura found that the residential house of Chandan Pal (respondent No.7) was located at plot No.559/7696 within

Mouza-Moynapur, JL No. 120, although the said plot was recorded in the government website as plot no.7696.

The main dispute between parties was with regard to existence of the passage on plot No.1160 within Mouza-Moynapur, JL No.120. As per the information slip, plot No.1160, measured around 26 decimal and was classified as 'DO'. The same allegedly belonged to the father of Chandan Pal, the petitioners along with several *raiyats*.

Upon consulting the mouza map, it appeared that plot No.1160 was attached to plot No.577 which was classified as '*pukur*'. Although, no path was recorded on plot No.1160, but there was physical existence of a passage on plot No.1160, which was linked to plot No.1158. On asking the persons nearby with regard to the existence of the passage, they stated before the authority that a passage on plot No.1160 was used for ingress and egress by some families along and the farmers of the locality, since long. The petitioners, however, did not accept such submission. Rather, they claimed that plot No.1160 was their ancestral property.

On perusal of the report of the Block Land and Land Reforms Officer Joypur, the ROR and documents, it appeared that a right of easement existed over the

pathway for all concerned. Hence, it was held that the respondent No.7 should not be deprived of electricity. Accordingly, the order was passed.

Admittedly, the Hon'ble Division Bench directed the District Magistrate to decide the matter in accordance with the decision of the learned Single Judge. The learned Single Judge had directed the District Magistrate to hear all the parties, consider all records and also seek appropriate report from the concerned Block Land and Land Reforms Officer. The allegation of the petitioners is that the District Magistrate could not have decided the issue of easement. The learned Single Judge had permitted the District Magistrate to obtain a report from the concerned Block Land and Land Reforms Officer. The report of the Block Land and Land Reforms Officer and the local people indicated that there was a pathway on plot No.1160, which was used by all the persons in the locality since long. On these findings, the order was passed by the District Magistrate. However, the order of the District Magistrate is not a conclusive decision either on the title of the parties or whether any right of way was available. Both the parties are at liberty to agitate the issues before the proper forum. If the petitioners proceed

to pray for declaration of their right, title and interest in respect of the alleged passage in question, the civil court shall decide the matter in accordance with law.

No equity can be claimed with regard to the connection granted to the respondent No.7. Such connection shall be subject to any decision in a civil suit or any other proceeding. However, with regard to the issue that an alternative route had been found out by the petitioners, the petitioners are granted liberty to prefer an appeal under Rule 3(3) before the appropriate commission and bring on record the issue of alternative route in accordance with law, by challenging the order impugned.

The writ petitioner is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)