

D/L. 13.  
February 13, 2024.  
MNS.

WPA No. 14417 of 2023

Protima Ghosh  
Vs.  
State of West Bengal and others

Mr. Lutful Haque,  
Mr. Tarun Kanti Ghosh

... for the petitioner.

Mr. Sumit Ray

...for the WBSEDCL.

Mr. Arif Ali

...for the private respondent.

1. Learned counsel for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) files a report as per previous direction upon inspection having been taken at 5 p.m. on the last date of hearing, that is, on February 8, 2024.
2. The said inspection report *prima facie* shows that the petitioner is in occupation of the disputed property.
3. Learned counsel for the private respondent submits that the private respondent had filed a suit against two third parties to the present writ petition initially for declaration and injunction. Subsequently however, the private

respondent has been dispossessed from the said property forcibly *de hors* the law by the defendants in the said suit, for which the private respondent is now in the process of carrying out necessary amendments for eviction in the said suit.

4. In the meantime, the present petitioner, a relative of the said defendants in the suit, is alleged to have been set up by the defendants therein and in view of the injunction granted in favour of the petitioner against the defendants, the said defendants thus try to evade the order of injunction by seeking electricity connection through the present petitioner.
5. Immediately prior to the inspection, it is alleged, the petitioner was brought in by the defendants, which was also sought to be informed by the private respondent to the WBSEDCL personnel.
6. For the purpose of getting electricity connection, it has to be seen as to whether the applicant is in *prima facie* possession of the property.
7. For such purpose, for the time being, it would only suffice if the WBSEDCL, being the

distribution licensee, is satisfied on such score upon an inspection. Although certain documents have been annexed to the writ petition, including her Aadhaar Card, Ration Card and certain extracts of CS records of rights, those do not disclose the exact details and particulars of the property-in-question, but merely refer to the general location and raise a *prima facie* case of possession of the petitioner.

8. Be that as it may, since the writ court and/or the Distribution Licensee are not the appropriate authorities to decide the questions of title and occupation, in view of the WBSEDCL having found *prima facie* the petitioner to be in occupation, the WBSEDCL is duty-bound to give electricity connection to the petitioner. Such act, however, shall not and cannot prejudice the rights and contentions of the private respondent insofar as the pending suit and the private respondent's civil rights are concerned.
9. Accordingly, WPA No. 14417 of 2023 is disposed of by directing the WBSEDCL to give electricity connection to the petitioner subject to the petitioner complying with all

formalities, preferably within a week from the date of compliance of such formalities.

10. It is, however, clarified that nothing in this order or the electricity connection, when given to the petitioner, shall prejudice the rights and contentions of the parties in the pending civil suit and/or create any special right or equity in favour of the petitioner which the petitioner otherwise does not have in law.

11. It will be open to the private respondent to raise all questions, including the question of possession, adequately before a competent civil court.

12. In the event any obstruction is raised, however, by the private respondent and/or his men and agents in giving electricity connection to the petitioner, the WBSEDCL personnel shall be at liberty to approach the respondent no. 6, that is, the Inspector-in-Charge, Amta Police Station, who shall grant adequate police assistance to the WBSEDCL personnel at the cost of the petitioner for giving electricity connection to the petitioner, in the process removing any hindrance or padlock if affixed on the way.

13. There will be no order as to costs.

14. The parties shall act on the server copy of this order without insisting upon prior production of certified copy thereto.

15. 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.)