

10.09.2024
Sl. No.102(ML)
srm

W.P.A. No. 18107 of 2024

Saikat Banerjee

Versus

**The West Bengal State Electricity Distribution
Company Limited & Ors.**

Mr. Subhojit Seal

...for the Petitioner.

Mrs. Susmita Chatterjee

...for the WBSEDCL.

Mr. Dinendra Nath Chatterjee,
Mr. Madhusudan Mandal

...for the Respondent Nos.5 & 6.

1. Affidavit-of-service is taken record.
2. The petitioner prayed for new connection in respect of a property which was objected to by the respondent Nos.5 and 6. The respondent Nos.5 and 6 filed a suit for declaration of title and permanent injunction against the authorities of the distribution company and the petitioner. The plaintiffs in the suit, including the respondent Nos.5 and 6, claimed to be co-sharers along with others of Plot No.1953 measuring an area of 85 decimals described in schedule 1 of the plaint. As per the plaint, the plaintiffs claimed to have inherited the schedule 1 property with other co-sharers. The entire property was vacant and was a joint property. The property was not

partitioned by metes and bounds. The defendant No.4 (petitioner) was trying to take a new connection in the said property, without the consent and approval of other co-sharers and the plaintiffs.

3. In such view of the matter, as the suit is pending and prayer has been made for a declaration that the defendants/WBSEDCL do not have any right to grant connection to the defendant No.4 in the suit property and a prayer for ad interim injunction is pending, this Court is unable to decide the issue. A writ of mandamus can be issued upon the authority to do certain acts, if the Court finds that the authority either acted illegally or failed to discharge its statutory function.
4. Thus, at this stage, it would be improper for the writ court to pass any order as the suit will become infructuous. However, the contention of the learned Advocate for the petitioner has merit.
5. The petitioner contends to have purchased the property with specific share and boundaries. The petitioner submits that there is a construction on the said land and it is not a vacant land. However, this Court notes that even if the plot is undivided, a co-sharer (petitioner), has a right to be granted connection. If the petitioner is considered to be a co-sharer by

the plaintiff, the petitioner is entitled to electricity without claiming any equity, till the property is partitioned by metes and bounds. Moreover, no one can remain in the dark forever.

6. Under such circumstances, as it appears that the prayer for temporary injunction is pending, the learned civil court is directed to hear out the application on the point of interim order, upon taking into consideration the submissions of the petitioner, the provisions of law and the discussion made in this order.
7. The prayer of the petitioner for grant of connection till the disposal of the suit shall also be considered by the learned civil court and the petitioner is entitled to file an application to that effect, immediately.
8. It is made clear that if there is no ad interim injunction restraining supply the petitioner, the authorities will proceed with the grant of connection, in accordance with law.
9. The writ petition is, thus, disposed of.
10. There shall be no order as to costs.
11. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)