

D/L. 5.
February 20, 2024.
MNS.

WPA No. 22440 of 2023

Hapan Chandra Mandi
Vs.
The Chairman, West Bengal State Electricity
Distribution Company Limited and others

Mr. Lal Ratan Mondal,
Mr. Dilip Kumar Sadhu

... for the petitioner.

Mr. Asif Dewan

...for the WBSEDCL.

Ms. Mousumi Choudhury,
Mr. Yash Vardhan Deora

...for the respondent no. 4.

Mr. Sumit Kumar Ray,
Mr. Munshi Ashiq Elahi

...for the respondent no. 5.

1. The affidavit-of-service of the petitioner and a police report filed by the State in Court today be kept on record.
2. The petitioner is admittedly a *bargadar* in respect of the disputed land where the petitioner carries on agriculture.
3. In a previous writ petition filed by the writ petitioner, the private respondent/landlord/owner made a submission that the said private respondent was not disturbing such cultivation. On the premise of such

submission, a co-ordinate Bench, vide order dated November 17, 2023 passed in WPA No. 22446 of 2023, directed the police authority to keep a sharp vigil at the locale and ensure that no breach of peace takes place.

4. The petitioner complains that despite such position, the private respondent has taken an electricity connection in respect of the same land to operate a submersible pump, thereby seeking to disturb the cultivation of the petitioner. The petitioner accordingly wrote to the West Bengal State Electricity Distribution Company Limited (WBSEDCL) concerned but to no effect.
5. It is argued that, in such oblique manner, the private respondent cannot take away the right of the petitioner to cultivate the land.
6. Learned counsel for the WBSEDCL submits that the private respondent duly applied for electricity connection and upon compliance of all formalities, such connection was given.
7. Learned counsel for the private respondent submits that till date the private respondent has not violated any order of the court. The private respondent agrees that the petitioner is a *bargadar* and is carrying on cultivation in respect of the disputed property-in-question but the said factual position does not debar

the private respondent/landlord/owner of the property in getting electricity connection with regard to the said property.

8. Upon hearing learned counsel, it transpires that it is an admitted position that the petitioner is a *bargadar* of the disputed land and is in cultivation of the same. In the event the private respondent actually disturbs such cultivation or comes in the way of such cultivation in any manner, it is always open to the petitioner to approach the competent court or forum to seek redressal of such allegations.
9. However, it is not for the Distribution Licensee to decide such issues.
10. In the present case, we find that the private respondent, who is the intermediary owner of the property, although not apparently in actual physical possession in view of the petitioner being the *bargadar*, is entitled to get electricity connection independently as an owner of the property.
11. The mandate of Section 43 of the Electricity Act, 2003 (2003 Act) is that every Distribution Licensee shall, on an application by the “owner or occupier” of any premise, give supply of electricity to such premises as stipulated therein.

12. It cannot be lost sight of that this Court has held in several judgments that a 'settled occupant' is entitled to get electricity at the premises. However, such qualification applies to an occupier and not an owner. The latter, in his independent capacity as owner, is entitled to get electricity connection in terms of Section 43(1) of the 2003 Act, although not in actual physical possession of the property or in settled occupation of the property.

13. The concept of "settled possession" applies to an occupier where the said occupier is not the owner.

14. Thus, there is no conceptual conflict between an owner and an occupier being entitled simultaneously to get electricity connection at the same property.

15. Hence, I do not find any bar in law to prevent the private respondent / intermediary owner having an electricity connection at the premises.

16. Thus, the ground of challenge in the present writ petition is frivolous and contrary to law and hence the writ petition cannot succeed.

17. Accordingly, WPA No. 22440 of 2023 is dismissed on contest.

18. However, it is made clear that in the event the petitioner applies for independent electricity

connection as an occupier, the WBSEDCL shall, subject to compliance of due formalities, give such connection to the petitioner as well.

19. That apart, in the event the petitioner or the private respondent has any other dispute vis-à-vis each other, on civil or criminal footing, they will be at liberty to ventilate the same before the appropriate competent court / forum irrespective of any observation made herein.

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.)