

21.05.2024
court no. 28
serial no. 76
kaushik

WPA 27587 of 2023

Swapan Mondal
Vs.
The State of West Bengal & Ors.

Mr. Rajdeep Bhattacharya
Mr. Sanjib Sankar Majumder
Mr. Debashis Banerjee
... ... for the petitioner

Mr. Sujit Sankar Koley
Mr. Swagatam Deb
... ... for the WBSEDCL

Mr. Nilotpal Chatterjee
... ... for the respondent no. 4

Mr. Kaustav Banerjee
... ... for the private respondent

The petitioner is claiming himself to be the owner of the property mentioned in paragraph 2 of the present writ petition.

It is the grievance of the petitioner that Office of respondent no. 2, while granting electricity connection to respondent no. 8, installed electric poles on petitioner's land without his consent.

Learned counsel for the petitioner points out that respondent no. 8 earlier had approached this Court in WPA 6156 of 2023 and this Court vide order dated 17.04.2023 directed the respondent no. 4 (the District Magistrate), to hear the parties and consider all relevant materials to arrive at a prima facie finding as to whether the petitioner therein has any right, title and interest over the property through which the connection has been given to the private respondents.

Hence, in pursuance to the said direction of this Court, the respondent conducted a hearing and passed a speaking order on 09.11.2023. The petitioner being aggrieved by the order dated 09.11.2023, had preferred the present writ petition.

It is the case of the petitioner that he had not participated in the proceeding before the respondent no. 4 in the earlier round of litigation.

This position is not disputed by the respondents.

Since the electric pole are sought to be installed in the petitioner's property, it is essential to afford an opportunity of hearing to the petitioner.

The petitioner contend that he had made a representation before the concerned authority on 04.12.2023. It is his contention that he shall be satisfied if his representation is duly decided by the concerned authority.

Learned counsel for the respondent no. 4 states that, he has no objection to decide the representation of the petitioner. It is further stated by respondent no. 4 that they have not encroached upon the petitioner's land and no pole is proposed to be erected on his property. It is further contended by the respondent nos. 1 to 3 that the report qua the erection of poles has already been submitted to the respondent no. 4 and is awaiting his decision. The respondent no. 8, the private respondent states that no pole is being erected on petitioner's property and he is in no way aggrieved by any action of the respondent.

The present writ petition is disposed of by directing the respondent no. 4 to decide the representation of the petitioner within a period of four

weeks by affording an opportunity of hearing to the petitioner, and the private respondents including the authorities concerned and shall pass a reasoned and speaking order. The final decision shall be communicated to the petitioner. Needless to state that the petitioner is at liberty to challenge the same in accordance with law.

With the above direction, the present writ petition is disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Gaurang Kanth, J.)