

D/L. 26.
February 7, 2024.
MNS.

WPA No. 28889 of 2023

Tapas Rakshit
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Pinaki Ranjan Chakrabarti

... for the petitioner.

Dr. Madhusudan Saha Roy

...for the WBSEDCL.

Mr. Subrata Bhattacharya,
Mr. Indranuj Datta,
Ms. Shipra Santra

...for the respondent no. 6.

1. The petitioner submits that the petitioner is a tenant in the disputed property and was enjoying electricity connection. Subsequently however, without any notice to the petitioner, the same was transferred in the name of the private respondent by the West Bengal State Electricity Distribution Company Limited (WBSEDCL). It is argued that such transfer is palpably *de hors* the law.
2. Learned counsel for the WBSEDCL submits that at the juncture when an application for transfer was made by the private respondent, an affidavit purportedly signed by the

petitioner was also produced by the private respondent, on the basis of which the WBSEDCL proceeded with the transfer on the premise that consent was given by the petitioner.

3. However, learned counsel for the private respondent no. 6 submits that the private respondent is a lessor under the Urban Development & Municipal Affairs Department, Government of West Bengal, which is the owner and superior landlord in respect of the premises. On such premise and in terms of the agreement between the private respondent and the Urban Development & Municipal Affairs Department, Government of West Bengal, the connection was transferred in the name of the private respondent.
4. Clause 7.2 of Regulation 46 of the West Bengal Electricity Regulatory Commission (WBERC) is specific on the issue that a 'no objection certificate' from the existing consumer as per format given in Annexure A2 mentioning the continuance of security deposit or refund of it to the person who deposited it, has to be furnished. That apart, other documents are also required to be furnished.
5. However, judicial notice is hereby taken of the fact that several instances are coming up

before the court where the applicant is producing an affidavit /'no objection' certificate alleged to have been issued by the existing consumer, upon which the transfer is being effected, giving rise to unnecessary multiplicity of litigation.

6. Hence, it is advisable that Clause 7.2(a) of the Regulation 46 of the WBERC has to be construed in such a manner that even if a 'no objection' certificate purportedly executed by the existing consumer is produced on behalf of the transferee and not by the existing consumer himself or herself, the WBSEDCL / other distribution licensees shall give a notice to the existing consumer nonetheless, at least for the purpose of verifying as to whether the existing consumer has actually executed such 'no objection' certificate and is aware of the same being produced before the distribution licensee, before carrying out the transfer of name in respect of the concerned meter in favour of a third party.
7. In the present case, for example, the petitioner categorically denies that any 'no objection' certificate was issued by the petitioner.
8. Hence, instead of wasting further time for all concerned by unnecessarily keeping the writ

petition pending, WPA No. 28889 of 2023 is disposed of by directing the WBSEDCL to fix a date of hearing, upon prior notice to both the petitioner and the private respondent, and thereafter upon hearing both sides, to decide whether the petitioner had actually issued the 'no objection' certificate.

9. Such exercise shall be concluded within three weeks from date.

10. In the event the WBSEDCL is of the *prima facie* opinion that the 'no objection' certificate was not issued by the present writ petitioner, within a week thereafter the WBSEDCL shall revert back the name in respect of the concerned meter to that of the petitioner from the private respondent.

11. However, in the event the WBSEDCL is of the opinion that the petitioner had granted a 'no objection' certificate, it will be open to the petitioner to apply for a fresh electricity connection. It will also be open to the petitioner in such case to challenge the decision of the WBSEDCL before an appropriate forum.

12. It is made clear that nothing in this order shall preclude the private respondent as well to apply for a fresh electricity connection in its own name, in which case the transfer in

favour of the private respondent shall automatically be reverted back to that of the petitioner

13. There will be no order as to costs.

14. 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.)