

05.05.2025

rpan/**A33**

MAT 1326 of 2023

+

IA No.: CAN 1 of 2023

Jugajit Banerjee & Another

– *Versus* –

The State of West Bengal & Others

Mr. Niladri Sekhar Ghosh,

Ms. Sompurna Chatterjee,

Ms. Laboni Sikder,

Mr. Souvik Dey

... for the Appellants.

Mr. Srijan Nayak,

Ms. Rituparna Maitra

... for the WBSEDCL.

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 9th June, 2023 passed by the learned single Judge in the writ petition, being WPA 12714 of 2023. The said writ petition was preferred by the appellants challenging *inter alia* an order dated 28th December, 2022 passed by the respondent no.2. By the said order, the respondent no.2 directed the appellants to pay an amount of Rs.5,00,000/- to Smt. Deblina Rakshit (in short, Deblina) in equal share. The learned single Judge by the order impugned in the present appeal refused to interfere with the said order of the respondent no.2.

Mr. Ghosh, learned advocate appearing for the appellants submits that Deblina earlier preferred a writ petition, being WPA 6313 of 2022 primarily challenging the inaction on the part of the authorities of the West Bengal State Electricity Distribution Company Limited

(hereinafter referred to as the WBSEDCL) to grant her compensation due to the unfortunate death of her husband by electrocution. Admittedly, the appellants were not made parties to the said writ petition and in their absence the learned single Judge relegated the issue for consideration to the respondent no.2. The appellants were thus deprived of their opportunity to establish at that juncture that they had no role to play in the said unfortunate incident.

He strenuously argues that the contents of the order dated 5th May, 2022 would reveal that dispute was restricted amongst the writ petitioner therein and the WBSEDCL authorities. The claim for compensation was, in fact, against the WBSEDCL. Without appreciating the true purport of the said order, the respondent no.2 entangled the appellants, who are not in any manner responsible for the said unfortunate incident.

Mr. Ghosh contends that the dispute ought not to have been relegated to the respondent no.2 inasmuch as the said respondent does not have any jurisdiction to decide an issue of compensation between the private parties. The order of the respondent no.2 thus suffers from a jurisdictional error.

He contends that the appellants did not even get any opportunity to know the allegations which were levelled against them inasmuch as by a notice they were simply directed to appear before the respondent no.2. Had such

allegations been known to the appellants, they could have appropriately dealt with the same at the time of hearing before the respondent no.2. In the said conspectus, it would be evident that in fact, the principles of natural justice were violated.

Mr. Ghosh submits that there is a pending criminal proceeding against the appellants and the observations made in the order of the respondent no.2, which was not interfered with by the learned single Judge, would have an adverse effect in the pending criminal proceeding. Such arguments, as advanced, were glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference in the present appeal.

Mr. Nayak, learned advocate appearing for the WBSEDCL submits that the appellants duly participated in the proceeding before the respondent no.2 and upon hearing them, the order was passed giving appropriate reasons and there was no error in the decision-making process.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

In the representation submitted by the appellant no.2, annexed at page 25 of the stay application, and also in course of hearing before the respondent no.2, the appellants admitted that they are cable operators and they affix such cable wires in electric poles or branches of trees

to provide television and internet services. They, however, failed to satisfy that they obtained permission from WBSEDCL to fix cables with G.I. wires on electric poles.

The argument of Mr. Ghosh that in the first writ petition, the learned single Judge committed an error in relegating an issue towards determination of compensation to the respondent no.2 was rightly discounted by the learned single Judge observing *inter alia* that the order passed in the first writ petition was not challenged by the appellant and upon service of notice, the appellants themselves submitted to the jurisdiction of the respondent no.2.

The apprehension of Mr. Ghosh that the order impugned in the present appeal if not interfered with would have an effect on the criminal proceeding which is pending is also not acceptable to us since the learned single Judge did consider the said issue and observed that such decision shall not have any direct bearing on the criminal trial.

The learned single Judge refused to exercise discretion in favour of the appellants giving elaborate reasons and we do not find any error in the decision-making process.

An appellate power interferes not when the order appealed is not right but only when it is clearly wrong. Upon dealing with all the factual issues, the learned Judge

arrived at specific findings and there is no error, least to say any patent error of law in the order impugned.

For the reasons discussed above, we are not inclined to interfere with the order impugned.

The appeal and the connected application are, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)