

Constitutional Writ

Present : The Hon'ble Mr Justice Jayanta Kumar Biswas

Judgment on : August 23, 2010

W.P.No.17658(W) of 2010

Amal Kanta Singha Roy

-vs-

The West Bengal State Electricity Distribution Company Limited & Ors.

Points:

**New connection**-Order of Statusquo passed in a civil suit- Neither the petitioner nor the licensing company are parties- Whether bars the licensing company to give new connection.-Electricity Act, 2003-S 43

Facts:

The petitioner submitted an application requesting the Distribution Company to give him new connection. The licensee is ready to give connection, but it is unable to give connection because of a letter dated March 9, 2010 written by advocate for the private respondent. By the letter the private respondent informed the licensee that in a pending suit the Civil Court made an order directing the parties thereto to maintain "status quo" and hence the licensee should not give the petitioner new connection

Held:

Neither the petitioner nor the licensee is a party to the suit in which the Civil Court made the interim order directing the parties thereto to maintain "status quo". It is, therefore, evident that neither the licensee nor the petitioner is bound by the order made by the Civil Court in the pending suit. Hence the licensee was free to give the petitioner connection. Even otherwise, Court do not find any reason to say that if connection is given to the petitioner that will amount to violation of the order of the Civil Court. Connection given to

the petitioner cannot create any right, title or interest of the petitioner in the property. It cannot affect any existing right, title or interest in the property of any other party as well.

Paras 3 and 4

Mr. Sudhansu Nath ....for the petitioner

Mr. Koushik Roy ....for WBSEDCL

Mr. Tapan Kumar Banerjee .....for the private respondent

The Court : As an occupier of a portion of the property in question the petitioner submitted an application requesting the Distribution Company, a licensee under the Electricity Act, 2003, to give him new connection. He complied with the necessary formalities and he is ready to comply with remainder thereof, if any.

2. The licensee is ready to give connection, but it is unable to give connection because of a letter dated March 9, 2010 written by advocate for the private respondent. By the letter the private respondent informed the licensee that in a pending suit the Civil Court made an order directing the parties thereto to maintain “status quo” and hence the licensee should not give the petitioner new connection.

3. Admittedly, neither the petitioner nor the licensee is a party to the suit in which the Civil Court made the interim order directing the parties thereto to maintain “status quo”. It is, therefore, evident that neither the licensee nor the petitioner is bound by the order made by the Civil Court in the pending suit. Hence the licensee was free to give the petitioner connection.

4. Even otherwise, I do not find any reason to say that if connection is given to the petitioner that will amount to violation of the order of the Civil Court. Connection given to the petitioner cannot create any right, title or

interest of the petitioner in the property. It cannot affect any existing right, title or interest in the property of any other party as well.

5. In view of the above-noted situation, I dispose of the art.226 petition directing the licensee to give the petitioner connection within a fortnight from the date the necessary formalities are complied with. The licensee will be free to take police help, if necessary, at the petitioner's expense. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)

