

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 23.04.2025
DELIVERED ON: 23.04.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**F.M.A. 1116 of 2024
With
I.A.No. CAN 1 of 2023**

**Kanailal Nayak
Versus
The West Bengal State Electricity
Distribution Company Limited & Ors.**

**Appearance:-
Mr. Bapin Baidya
Ms. Sunanda Samanta**

.....For the Appellant

**Mr. Srijan Nayak
Mrs. Rituparna Maitra**

..... For the W.B.S.E.D.C.L.

Ms. Reshmi Khatun

.....For the Respondent No.6

(Judgment of the Court was delivered by T.S. SIVAGNAM, C.J.)

1. This intra-Court appeal by the writ petitioner is directed against the order dated May 15, 2023 in W.P.A. 10081 of 2023. The appellant/writ petitioner claimed that he is the sole owner of the land in question upon which the respondents/Electricity Distribution Company have drawn an overhead electric line thereby bifurcating the land into two hubs for the purpose of giving electricity supply to the private respondent.
2. According to the appellant, the drawing of the electricity line across the appellant's property is in clear violation of the order and direction passed in an earlier writ petition in W.P. No.13606 (W) of 2011, which was filed by the respondent no.6 herein.

3. It is submitted by the learned advocate appearing for the appellant that while disposing of the writ petition by order dated September 5, 2011, the Court made it clear that if it is found that the supply can be given without using any disputed property and particularly any part of the private respondent's property (the appellant herein), then the supply shall be effected without any delay (to the private respondent herein).
4. The appellant filed the second writ petition alleging that the electricity line has been drawn across his private property thereby bifurcating his property into two hubs and the action of the Electricity Distribution Company is in violation of the order passed in the earlier writ petition and, therefore, appropriate directions were sought for. The learned Single Bench disposed of the writ petition by the impugned order after taking note of the fact that a civil suit is pending between the parties filed by the private respondent herein and also a proceeding before the Sub-Divisional Executive Magistrate initiated by the private respondent.
5. Therefore, it was made clear that the order passed in the writ petition directing grant of electricity supply to the private respondent shall not preclude the learned Magistrate and/or the Civil Court from passing appropriate orders in accordance with the decision arrived at by the said authorities and that the electricity connection to the private respondent shall not *per se* confer any special right or equity in favour of the private respondent, which the private respondent otherwise does not have in law or equity and shall be subject to the decision of the proceedings before the learned Magistrate and the suit before the Civil Court.
6. In our view, the order and direction issued by the learned Writ Court was perfectly justified considering the facts and circumstances of the case. This is so because, it is not for the Writ Court to decide as to who is the absolute owner of the property or whether the property over which the electricity line has been drawn is a common passage as contended by the private respondent no.6 as it is the matter

involving adjudication into the disputed questions of fact and has to be decided by a Civil Court.

7. So far as the proceedings before the learned Executive Magistrate is concerned, it appears that as on 9th March, 2023, the proceedings had been closed since the private respondent, who had initiated the proceedings did not participate in the same. Therefore, the only option left for the appellant is to approach the Civil Court and seek for appropriate relief either by way of a fresh suit or by filing an application in the pending suit filed by the private respondent no.6.
8. The learned advocate appearing for the private respondent no.6 submitted that the electricity line has been drawn and supply has been effected to the private respondent and the line has been drawn across the private passage.
9. Accordingly, while affirming the order and direction issued by the learned Single Bench, liberty is granted to the appellant to file an appropriate application in the pending civil suit or to file a fresh suit before the Civil Court having jurisdiction over the matter and if such application is filed within a period of 15 days from the date of receipt of server copy of this order, the Civil Court shall entertain such application and proceed to take a decision in accordance with law as expeditiously as possible.
10. With these above observations, appeal along with the connected application (I.A. No. C.A.N. 1 of 2023) stand dismissed.
11. No costs.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)