

GAHC010093922023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2453/2023

DIPU KUMAR BARMAN
SON OF LATE KANAK CHANDRA BARMAN,
RESIDENT OF UTTAR JALUKBARI,
P.O.- GAUHATI UNIVERSITY, PIN- 781014,
P.S.- JALUKBARI, DISTRICT- KAMRUP(METRO), ASSAM.

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 6 ORS
REPRESENTED BY ITS CHAIRMAN, BIJULEE BHAWAN, GHY-6.

2:ASSISTANT EXECUTIVE ENGINEER

JALUKBARI ELECTRICAL SUB-DIVISION

AMINGAON
PIN- 781031.

3:SUB-DIVISIONAL ENGINEER
JALUKBARI ELECTRICAL SUB-DIVISION
SATMILE
GHY-14.

4:ANUP KUMAR BARMAN
SON OF LATE KANAK CHANDRA BARMAN

RESIDENT OF HOUSE NO. 16
UTTAR JALUKBARI

P.O.- GAUHATI UNIVERSITY

P.S.- JALUKBARI

PIN- 781014

DISTRICT- KAMRUP(METRO)

ASSAM.

5:KISHOR KUMAR BARMAN
SON OF LATE KANAK CHANDRA BARMAN

RESIDENT OF HOUSE NO. 16
UTTAR JALUKBARI

P.O.- GAUHATI UNIVERSITY

P.S.- JALUKBARI
PIN- 781014

DISTRICT- KAMRUP(METRO)

ASSAM.

6:ALAKA BARMAN
WIFE OF LATE KANAK CHANDRA BARMAN

RESIDENT OF HOUSE NO. 16
UTTAR JALUKBARI

P.O.- GAUHATI UNIVERSITY

P.S.- JALUKBARI
PIN- 781014

DISTRICT- KAMRUP(METRO)

ASSAM.

7:SIMI BARMAN
WIFE OF DR. D.K. BARMAN

RESIDENT OF NO. 4 KANAKLATA PATH

BHARALUPAR

BHANGAGARH
GHY-5

Advocate for the Petitioner : MR. M H ANSARI

Advocate for the Respondent : SC, APDCL

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 08-05-2023

Heard Mr. A Alim, learned counsel for the petitioner, who submits that there is a property dispute between the petitioner and the private respondent Nos. 4 to 7 in respect of a plot of land measuring 2 kathas 7.96 lechas covered by Dag No. 365 of Patta No. 57, class of land- 1st Basti, situated at Revenue Village- North Jalukbari, under Mouza Jalukbari, District Kamrup (Metro), Assam under Guwahati Revenue Circle. He submits that the respondent Nos. 4 and 5 are the brothers of the petitioner and the respondent No. 6 is the mother of the petitioner. The respondent No. 7 is the sister of the petitioner. The petitioner's grievance is that the electricity connection to the Assam Type house in which he is living and which is also in dispute between the parties, has been cut by the private respondents.

2. The petitioner's counsel submits that the petitioner is residing in the Assam Type house on the said land, which is in dispute in T.S. No. 57/2021 and Misc. Probate Case No. 10/2021 (thereafter renumbered as T.S.(Probate) Case No. 2/2023) pending before the Court of Civil Judge No. 1 and District Judge, Kamrup (Metro) respectively. He submits that though the petitioner has prayed for temporary and permanent electricity connection with the respondent Nos. 1 to 3, the petitioner has not been given any connection.

3. Mr. B Choudhury, learned counsel for the APDCL submits that in terms of the judgment of the Apex Court in the case of ***Dilip (deceased) through***

legal heirs vs. Satish & Ors. in Criminal Appeal No. 810/2022, the Apex Court has held that electricity is a basic amenity which a person cannot be deprived of. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for the electricity connection is in occupation of the premises in question.

4. On considering the law laid down by the Apex Court that a person cannot be deprived of electricity as it is a basic amenity, the respondents/APDCL are directed to provide temporary connection to the petitioner, provided that the petitioner is in occupation of the premises in question. The same should be done within a period of 1 (one) week from today. The temporary connection to be made in the premises of the petitioner would be further subjected to the petitioner paying all the fees and security deposits required by the APDCL.

5. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant