

GAHC010151572023



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

Case No. : WP(C)/3966/2023

MADAN LAL PAREEK
S/O- LATE NARSING RAY PAREEK, R/O- SONAIGHULI, VILL- SAWKUCHI,
P.S- FATASHIL AAMBARI, GHY- 781019, DIST KAMRUP (M), ASSAM

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LTD AND 7 ORS
REP. BY ITS CHAIRMAN, BIJULI BHAWAN, PALTANBAZAR, GHY- 781001

2:THE CEO
GUWAHATI ELECTRICAL CIRCLE-I
APDCL (LAR)
ULUBARI
GUWAHATI- 781007

3:THE AGM
GUWAHATI ELECTRICAL DIVISION
EAST
APDCL(LAR)
DISPUR
GHY- 781006

4:THE SDE
KALAPAHAR ELECTRICAL SUB DIV
APDCL (LAR)
KAHILIPARA
GHY- 781019

5:THE STATE OF ASSAM
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVT OF
ASSAM
REVENUE AND DM DEPTT

DISPUR
GHY- 781006

6:THE DEPUTY COMMISSIONER
KAMRUP(M)
PUBLIC HEALTH
HENGRABARI
GHY- 781036

7:THE CIRCLE OFFICER
DISPUR REVENUE CIRCLE
BASISTHA CHARIALI
GHY- 781029

8:GAURAV KUMAR CHOUDHURY
S/O- SRI PARAMANANDA CHOUDHURY
R/O- H NO. 5
P P ROAD
P.O AND P.S- PALTANBAZAR
GHY-78100

Advocate for the Petitioner : MR S PARASHAR

Advocate for the Respondent : SC, APDCL

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

19.10.2023

1. Heard Mr. S. Parashar, learned counsel for the petitioner and Mr. I. Ahmed, learned counsel for the respondent no.8. Ms. N. Bordoloi, learned counsel appears for the respondent no.5.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction to be issued to the respondent authorities, for quashing the disconnection notice dated 15.06.2023, issued by the Sub

Divisional Engineer, Kalapahar Electrical Sub-Division (respondent No.4) and the consequential disconnection of electricity energy supply to the petitioner on 03.07.2023.

3. In brief, the case of the petitioner is that vide sale deed bearing registered deed No.5286/04 dated 14.07.2004, he had purchased a plot of land measuring 1 katha inclusive of road land, covered by Dag No.798, 799 of Patta No.61 of Village Sawkuchi under Mouja Beltola in the District of Kamrup (M), which is bounded in the North by Munindra Chandra Ray, South by Upen Goswami, East by PWD Road, and West by Hill. The petitioner claims to be enjoying electricity energy under consumer No. 002000000587 from Kahilipara Electrical Sub-Division. It is projected that the respondent No.8 applied for demarcation of his separate land which is covered by Dag No.59 and 62 and in connection with the said demarcation case, it was detected that the petitioner is in possession of a part of the land of respondent No.8.

4. It may be mentioned that the petitioner claims that his wife has also purchased a plot of 1 katha of land. However, the Court does not take cognizance of the claim made by the wife of the petitioner because in this writ petition the petitioner is not suing in representative capacity on behalf of his wife. Therefore, the land referred to in this order only reflects the land purportedly purchased by the petitioner and not his wife.

5. It is also projected that at the instance of the respondent No.8, the APDCL authorities have disconnected the electricity energy connection to the petitioner

and accordingly, on the basis of the actual physical possession which is being enjoyed by the petitioner, the learned counsel for the petitioner has prayed for continuance/resumption of electricity energy supply to the petitioner.

6. The learned standing counsel for the APDCL has submitted that notwithstanding the dispute of ownership and/or right, title, interest and possession over the disputed land, in so far as the APDCL is concerned, a temporary electricity connection has been provided to the petitioner on payment of the prescribed security deposit. However, it is submitted that if the petitioner is not found to be the owner of the land and is unable to give NOC from the owner of the land, the APDCL will have to disconnect the electrical connection.

7. The learned counsel for the respondent No.8 has submitted that the land of petitioner would be covered by Dag No.798, 799 (old), corresponding to new Dag No.58 of Village Sawkuchi. However, as per the current trace map prepared on 22.10.2020 the land purportedly owned by the petitioner would be covered by new Dag No.2205 and 58, whereas the land which is covered by the old and new Dag No.59 and 62 belongs to the respondent no.8. Accordingly, it is submitted that without the NOC of the respondent No.8, electricity connection ought not to be ordered in favour of the petitioner as it would create a cloud over the right of the respondent no.8.

8. I have heard the learned counsels for the parties.

9. Pursuant to the order passed by this Court on 13.07.2023, the petitioner

has been provided a temporary electrical connection, notwithstanding the fact that the petitioner and the respondent no.8 have a dispute with regard to right, title, interest and possession over the disputed land. This writ petition having been filed with a prayer for providing electrical power supply connection, this Court is of the view that the same having been done by the APDCL, by giving a temporary electrical connection to the petitioner, there is nothing to be decided in this writ petition. Further, the question of right, title, interest and possession over the disputed property can be decided only by a Civil Court by taking evidence. The petitioner would have to claim his right, title, interest and possession over the disputed property before the Civil Court and the same should be availed within a period of 2 (two) months from today. It is made clear that the temporary electrical connection given to the petitioner shall continue to be given, till a decision is taken by the Civil Court with regard to the right, title, interest and possession over the disputed property. The same is however subject to the condition that the petitioner files his suit for right, title, interest and possession over the disputed property within a period of 2 (two) months from today.

10. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant