

GAHC010086702024



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

Case No. : WP(C)/2315/2024

RAM PRASAD DAS
S/O- RAM CHARAN HARIJAN @ RAM CHANDRA HARIJAN, R/O- HOUSE
NO. 39 PITALKARKHANA, BISHNUPUR, P.O. GOPINATHNAGAR, P.S.
BHARALUMUKH, GUWAHATI-781016, KAMRUP(M), ASSAM

VERSUS

THE ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 5 ORS
(APDCL), REPRESENTED BY CHAIRMAN 4TH FLOOR, BIJULEE BHAWAN,
PALTAN BAZAR, GHY-781001.

2:THE JOINT SECRETARY DEPARTMENT

POWER AND ELECTRICITY DEPARTMENT
DISPUR
GUWAHATI
ASSAM
PIN- 781006.

3:THE ASSAM STATE ELECTRICITY BOARD
(ASEB)

REP. BY SECRETARY
4TH FLOOR
BIJULEE BHAWAN
PALTAN BAZAR
GHY-781001.

4:THE GENERAL MANAGER / MANAGING DIRECTOR
APDCL
SIX MILE
GUWAHATI

PIN- 781022.

5:THE SUB-DIVISIONAL ENGINEER
KALAPHAR
ELECTRICAL SUB-DIVISION
APDCL
LAR
KAHILIPARA
GUWAHATI
PIN- 781016.

6:RAM AKBAL DAS
PITALKARKHANA
BISHNUPUR
P.O. GOPINATHNAGAR
P.S. BHARALUMUKH
GHY
DIST. KAMRUP(M)
PIN- 781016

Advocate for the Petitioner : G UDDIN

Advocate for the Respondent : SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

03.05.2024

1. Heard Mr. G. Uddin, learned counsel for the petitioner. Also heard Mr. K.P. Pathak, learned counsel for the APDCL and Ms. S. Dasgupta, learned counsel for the respondent no.6.

2. Mr. G. Uddin, learned counsel for the petitioner submits that there is a Title Suit No.98/2024 pending between the petitioner and the respondent No. 6, filed by the petitioner, seeking a declaration of possessory right over the suit land.

3. The petitioner's case is that the respondent No. 6 has illegally cut off the electricity for which Misc.(J) Case No. 179/2024 has been filed in Title Suit No. 98/2024, praying for restoration of electricity and water supply and other amenities.

4. On a query to the learned counsel for the petitioner as to why the petitioner had initiated two parallel proceedings for restoration of electricity connection, the petitioner's counsel submits that the APDCL, who is to restore the electricity connection, is not a party in Misc.(J) Case No. 179/2024 or in Title Suit No. 98/2024.

5. The counsel for the respondent no.6 submits that the possessory rights of the petitioner in the property is under consideration in Title Suit No.98/2024 pending before the Court of the Civil Judge, Junior Division No.2, Kamrup(M), Guwahati and the documents regarding the same has not been given to the respondent no.6..

6. In the case of ***Dilip (dead) through Lrs. Vs. Satish & Others*** , reported in ***2022 0 Supreme (SC) 1485***, the Supreme Court has held that the electricity is a basic amenity of 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 a No Objection Certificate. All that the Electricity Supply Authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.

7. In view of the law laid down by the Supreme Court, this Court is of the view that if it is found that the petitioner is in occupation of the premises in question, he should be granted a temporary electricity connection by the APDCL authorities.

8. Accordingly, the petitioner is given the liberty to make an application to the

APDCL authorities, for grant of a temporary connection and the same should be provided by the APDCL authorities, if the petitioner is in occupation of the premises for which the electricity connection is sought for. If the petitioner makes an application for temporary connection of electricity, the same should be considered and disposed of at the earliest.

9. The writ petition is accordingly disposed of. However, it may be clarified that this Court has not made any finding or observation with regard to the grievance of the parties in connection with Title Suit No.98/2024.

10. The petitioner is also directed to give all pleadings/documents relating to T.S. No.98/2024 to the respondent no.6 within a week from today.

JUDGE

Comparing Assistant