

GAHC010115232024



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

Case No. : WP(C)/2990/2024

FULUARA BEGUM
WIFE OF SAFIULLAH SEIKH,
RESIDENT OF VILLAGE- MAROI,
PO AND PS- SIPAJHAR,
DIST- DARRANG, ASSAM.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY,
POWER DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE ASSAM STATE ELECTRICITY DEPARTMENT
REPRESENTED BY THE GENERAL MANAGER

ASSAM POWER DISTRIBUTION CO. LTD.

BIJULEE BHAWAN
PALTANBAZAR

GUWAHATI- 781001.

3:THE EXECUTIVE ENGINEER
ASSAM POWER DISTRIBUTION CO. LTD.
DARRANG
MANGALDOI
DIST.- DARRANG
ASSAM.

4:THE SUB-DIVISIONAL ENGINEER
ASSAM POWER DISTRIBUTION CO. LTD.

PO AND PS- SIPAJHAR

DIST.-DARRANG
ASSAM.

5:DR. SAHJAHAN ALI
SON OF LATE ABDUS HAQUE

VILLAGE- DUWARIPARA

P.O. AND P.S.- SIPAJHAR

DIST.- DARRANG
ASSAM

Advocate for the Petitioner : MR H R CHOUDHURY

Advocate for the Respondent : GA, ASSAM

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

14.06.2024

Heard Mr. H.R. Choudhury, learned counsel for the petitioner. Also heard Mr. B. Choudhury, learned Standing Counsel, Assam Power Distribution Co. Ltd. (APDCL).

2] The petitioner in the present writ petition is a tenant in a property owned by the respondent no.5 and the land owner disconnected her electricity connection with the intention to evict her from his house without following the due procedure of law. Regarding the tenancy of the said property, a title suit being T.S. No.44/2024 is filed by the petitioner before the Civil Judge (Jr.

Division) No.2, Darrang, which is pending before the said Court. The petitioner filed also a Misc.(J) Case No.34/2024 praying for temporary injunction and the learned Trial Court by order dated 24.04.2024 passed in Misc.(J) Case No.34/2024 granted injunction in favour of the petitioner. However, during the pendency of the title suit, the petitioner approached the APDCL Authority for restoring the connection but the same has not been done. Being aggrieved, the petitioner has approached the Court by filing the present writ petition.

3] Learned counsel for the petitioner submits that in connection to the similar issue the Co-ordinate Bench of this Court had passed an order dated 12.01.2024 in WP(C) no.129/2024 and prays that the present writ petition may also be disposed of in terms of the order dated 12.01.2024 passed in WP(C) No.129/2024.

4] Mr. B. Choudhury, learned Standing Counsel, APDCL does not object to the submission made by the learned counsel for the petitioner.

5] Upon perusal of the order dated 12.01.2024 passed in WP(C) No.129/2024, it is seen that the issues raised in the present writ petition stand squarely covered by the order dated 12.01.2024 passed in WP(C) No.129/2024. The operative portion of the order dated 12.01.2024 passed in WP(C) No.129/2024 is quoted herein below:

6. This Court has also taken note of the judgment rendered by the Supreme Court in the case of Dilip (Dead) through Lrs. Vs. Satish & Others, reported in 2022 SCC online SC 810, wherein the Supreme Court had, in paragraph 9 of the said judgment, categorically observed that it is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. It was also observed that 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 electricity connection is in occupation of the premises in question.

7. Taking note of the above, this Court has put a pointed query to the learned counsel for the petitioner as to whether the petitioner would be agreeable for making application for a separate electric connection. The learned counsel for the petitioner submits that the petitioner is agreeable for applying for a separate electricity connection to the premises in question.

8. In view of the above, this Court therefore grants liberty to the petitioner to submit appropriate application before the concerned respondent APDCL authority seeking a separate electricity connection and in the event of such application being filed, the respondent APDCL authorities shall, in accordance with their Rules and Regulations, provide separate meter/electricity connection to the petitioner subject to payment of necessary dues. Further to that, taking into account the law laid down by the Supreme Court in the case of Dilip (Dead) through Lrs. (supra), this Court makes it clear that the respondent APDCL authorities shall not insist upon the petitioner for submission of No Objection Certificate from the respondent No. 5.

9. The Writ petition stands disposed of in terms of the above.

6] In view of the order dated 12.01.2023 passed in WP(C) No.129/02024, this Court also grants liberty to the petitioner to submit appropriate application before the APDCL Authority seeking a separate electricity connection and if such an application is filed, the respondent APDCL Authority shall, in accordance with their Rules and Regulation, provide separate meter/electricity in connection to

the petitioner subject to payment of necessary dues. Further to that, taking into account the law laid down by the Supreme Court in the case of ***Dilip (Dead) through Lrs.*** (supra), this Court makes it clear that the respondent APDCL Authorities shall not insist upon the petitioner for submission of “*No Objection Certificate*” from the respondent No. 5.

7] The petitioner shall furnish a certified copy of this order along with the order dated 12.01.2024 passed in WP(C) No.129/2024 before the APDCL Authority along with the application for separate electricity connection.

8] The writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant