

GAHC010124832024



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

Case No. : WP(C)/3281/2024

SUNITA HAZARIKA

D/O- LATE NRIPEN HAZARIKA, R/O- AASHI KATYAON APARTMENT, FLAT
NO. 3B, 3RD FLOOR, NEAR CHINAKI PATH, GEETANAGAR, GUWAHATI,
P.O. AND P.S. GEETANAGAR, PIN- 781024.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM POWER DEPARTMENT, DISPUR, GHY-6.

2:THE ASSAM STATE ELECTRICITY BOARD
REPRESENTED BY ITS CHAIRMAN
BIJULEE BHAWAN
PALTANBAZAR
GUWAHATI-781001.

3:THE ASSAM POWER DISTRIBUTION COMPANY LTD.

REPRESENTED BY ITS MANAGING DIRECTOR
BIJULEE BHAWAN
PALTANBAZAR
GHY-781001.

4:THE SUB-DIVISIONAL ENGINEER
NORTH LAKHIMPUR ELECTRICAL SUB DIVISION
DIST. LAKHIMPUR
ASSAM

5:SMTI RUNI HAZARIKA
W/O- LATE NRIPEN HAZARIKA
R/O- WARD NO. 7

D.K. ROAD
P.O. AND P.S. NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM
PIN- 787001

Advocate for the Petitioner : MR. I CHOUDHURY, M INGTI

Advocate for the Respondent : GA, ASSAM, SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

07.08.2024

- 1.** Heard Mr. I. Choudhury, learned counsel for the petitioner, who prays that a direction may be issued to the APDCL, to restore the electricity connection in the name of the petitioner, Consumer No. is 227010133087.
- 2.** The petitioner's case is that the petitioner's father expired on 23.11.2017 leaving behind his wife and three daughters. The petitioner herein is the youngest daughter. The petitioner's case is that the petitioner's father was the absolute owner and possessor of a plot of land measuring 1 Katha 17 Lechas covered by Dag No.2403, 2404, K.P. Patta No.1181, Village-North Lakhimpur Sadar 1st Part, Mouza- North Lakhimpur, District-Lakhimpur, Assam, wherein there is a residential house having many rooms, which are given on rent.
- 3.** After the death of the petitioner's father, the petitioner, her mother and two elder sisters got their names mutated in respect of the aforesaid land. As per the mutual consent of the petitioner's mother and sisters, the petitioner

became the owner of two shop rooms in the aforesaid building and the petitioner has given one of the shop room on rent.

4. The petitioner's counsel submits that the petitioner was granted a new electricity connection in her name by the respondent authorities and given the Consumer No. 227010133087 in the month of May, 2024. The petitioner had also deposited the required Fees/Security Deposit. The petitioner's counsel submits that the electricity connection supplied earlier was in the name of the petitioner's father. After getting the connection, the petitioner did not default in paying the electricity bill. However, the respondent authorities have without any notice cancelled the electricity connection issued in the name of the petitioner on 16.05.2024.

5. Mr. B. Choudhury, learned Standing Counsel, APDCL, on the other hand submits that no new electricity connection has been granted to the petitioner at any point of time. He submits that the petitioner had submitted an application for grant of a new electricity connection on 16.05.2024 and Rs.3929/- had been deposited by the petitioner as application Fees. He further submits that the Consumer No.227010133087 is a System Generated number given to a person, who applies for an electricity connection and the same cannot be said to be proof that the petitioner has been granted an electricity connection by the ADPCL.

6. Mr. B. Choudhury has also submitted letter dated 10.06.2024 issued by the respondent no.4 which is to the effect that the new service electricity

connection applied for by the petitioner could not be processed due to a complaint received from the co-pattadars on 16.05.2024, i.e. petitioner's mother and two sisters. Accordingly, the payment made was returned to the petitioner and the petitioner was informed that the application would be processed, subject to the receipt of No Objection Certificates from the co-pattadars of the property in question.

7. Mr. B. Choudhury has also submitted letter dated 16.05.2024 issued by the petitioner's mother and two sisters, addressed to the Sub-Divisional Officer, APDCL which is to the effect that they had come to learn that the petitioner had been illegally provided a Consumer No. 227010133087 without the consent of the other co-pattadars. The letter further stated that the petitioner's mother resides in the premises in question and that on the morning of 16.05.2024 at around 6:00 a.m, the petitioner's mother found that the old meter had been stolen by someone and the petitioner had sent an application with Rs.1000/- for a new meter to be installed through one Kamal Saha (tenant). The letter also stated that as the petitioner, the petitioner's mother and the petitioner's two sisters were co-pattadars of the land, an electricity connection could not be provided to the petitioner, without taking No Objection Certificates from the other co-pattadars.

8. On a query being made to the petitioner's counsel, the petitioner's counsel submits that a Title Suit has been filed by the petitioner's mother in the Court of the Civil Judge, Lakhimpur. However, he does not know the number of the Title Suit, though the petitioner has been made a party in the Title Suit. The petitioner's counsel submits that the Title Suit has been filed by the petitioner's

mother subsequent to the filing of the present writ petition and the same relates to a dispute with regard to the property left behind by the petitioner's father, where the petitioner is a co-pattadar.

9. The above being said, the prayer of the petitioner is for a direction to be issued to the respondent authorities to restore the electricity connection, which had been provided to the petitioner. Paragraph-7 of the writ petition also states that the petitioner did not default in paying the electricity bill. The above prayer and averments made in the writ petition implies that an electricity connection had been provided to the petitioner, which has been disconnected and that the petitioner has paid the electricity bill. However, no electricity bill is annexed to the present writ petition and it has been made clear that no electricity connection had been given to the petitioner. The above goes to show that the petitioner is trying to play "hide and seek" with facts with this Court. Further, there is already a case pending between the petitioner, the petitioner's mother and sisters before the Civil Court at Lakhimpur which the petitioner is aware of.

10. On considering the fact that the electricity connection has already been provided to the building in question and as a stolen meter can be replaced by a new meter, this Court does not find any ground to exercise its discretion for grant of a new electricity connection, inasmuch as, the same may have a bearing on the stand taken by the parties in the Title Suit that is pending between the petitioner, her siblings and mother. It is also not the case of the petitioner that no electricity connection is being provided to the said building in question, wherein the shares of the parties would be decided by the Civil Court. Consequently, this Court is of the view that until and unless the Civil Court

comes to a finding and decree, with regard to the specific share of the petitioner with regard to the rooms that are in the building, the petitioner cannot be allowed to apply for a new electrical connection. However, the said fact does not mean that the rooms that are occupied or in possession of the petitioner should not be given any electrical connection. As and when there is any finding or decision taken by the learned Trial Court that any room in the building is to be the share of the petitioner or that she is in possession of some room which should not be disturbed, wherein no electricity connection is provided, in that event the petitioner may apply for a fresh electricity connection for that particular room/s.

11. In view of the reasons stated above, this Court is not inclined to exercise it's discretion in the present case, inasmuch as, all the factual issues with regard to the property in question have not been brought out by the petitioner in this case and neither has the issue of title been decided by the Trial Court as on date.

12. The letter dated 10.06.2024 issued by the respondent no.4 and the letter dated 16.05.2024 issued by the petitioner's mother and two sisters are made a part of the record and marked as Annexure-X & Y respectively.

13. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant