

GAHC010166852023



2024:GAU-AS:12393

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

Case No. : WP(C)/4508/2023

DR. SUSHIL KUMAR JAIN
S/O LATE BHAWAR LAL JAIN, R/O ZAMAN BUILDING, 2ND FLOOR, G.K.
TOWER (RAILWAY GATE NO. 7), A.T. ROAD, GUWAHATI-781009,
PRESENTLY R/O 40/118, C.R. PARK, 2ND FLOOR, P.S.-KALKAJI, NEW DELHI-
19

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 2 ORS
HAVING ITS REGISTERED OFFICE AT 4TH FLOOR, BIJULEE BHAWAN,
PALTAN BAZAR, GUWAHATI-781001, REPRESENTED BY ITS MANAGING
DIRECTOR

2:DIVISIONAL ENGINEER
FANCY BAZAR ELECTRICAL SUB DIVISION
APDCL (LAR)
MACHKOWA
GUWAHATI-781009

3:JITENDRA PRASAD
S/O MAHABIR PRASAD
R/O URMILA NIWAS
T.R. PHUKAN ROAD
FANCY BAZAR
GUWAHATI-781001
KAMRUP (M

Advocate for the Petitioner : MR. S SHARMA,

Advocate for the Respondent : SC, APDCL, MR. S SAIKIA (r-3),MR U DAS (r-3)

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

09.12.2024

1. Heard Mr. N. Thakuria, learned counsel appearing on behalf of Mr. S. Sharma, learned counsel for the petitioner. Mr. B. Choudhury, learned counsel appears for the respondent nos.1 & 2 (APDCL), while Mr. S. Saikia, learned counsel appears for the respondent no.3.

2. The petitioner's case is that he is a tenant of the respondent no.3 and a Senior Surgeon in the Indraprastha Apollo Hospital at New Delhi. The petitioner's grievance is that the respondent no.3 has been trying to evict the petitioner and in this respect his electricity connection was also disconnected by the APDCL, on the prayer made by the respondent no.3. Further, Title Suit No.452/2011 was instituted by the respondent no.3 for eviction of the petitioner before the Court of the learned Munsiff, Kamrup(M), Guwahati. Title Suit No.452/2011 was also dismissed and thereafter Title Appeal No.558/2017 was preferred by the respondent no.3. The same was also dismissed. The respondent no.3 has now filed Title Suit No.758/2022 before the Court of the Munsiff-5, Kamrup(M), Guwahati under the Assam Urban Areas Rent Control Act, 1972, – which is still pending adjudication.

3. The petitioner's counsel submits that the electricity connection which had been discontinued by the APDCL to the rented premises of the petitioner, had been temporarily restored.

4. Mr. B. Choudhury, learned counsel for the APDCL also submits that the temporary connection has been given to the petitioner.

5. Mr. S. Saikia, learned counsel for the respondent no.3 submits that the petitioner is living in New Delhi and has kept the tenanted premises under lock and key for the last 10 (ten) years.

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

7. The prayer of the petitioner in this writ petition is to issue a direction to the APDCL to supply electricity to the tenanted premises of the petitioner. The submission made by the counsels for the parties show that the prayer of the petitioner has been acceded to by the APDCL, inasmuch as, temporary electricity connection has been provided to the tenanted premises of the petitioner. Further, in the case of ***Dilip (Dead) Through Lrs. Vs. Satish & Others***, reported in ***2022 SCC OnLine SC 810***, the Supreme Court has held that a person cannot be deprived of electricity. All that the electricity supply authority is to ensure is whether the applicant for the electricity connection is in occupation of the premises in question.

8. In view of the fact that the question with regard to the prayer of the respondent no.3 for eviction of the petitioner in Title Suit No.758/2022, is to be decided by the Civil Court and as the petitioner's prayer in the writ petition has been acceded to, there is nothing left to decide in the present writ petition. It is made clear that electricity connection that is provided to the petitioner would

only be temporary in nature and the issue of whether the same should be converted into a permanent electricity connection, would depend upon the outcome of the decision to be taken in Title Suit No.758/2022

9. The writ petitioner is accordingly closed as infructuous.

JUDGE

Comparing Assistant