

GAHC010265962023



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

Case No. : I.A.(Civil)/132/2024

SRI JOY PRAKESH BARNEWAL,
S/O- LATE KESHAB PRASHAD GUPTA, R/O- MOIRABARI, P.S. MOIRABARI,
DIST.- MORIGAON, ASSAM, PIN- 782126.

VERSUS

MD. SURHAB ALI AND 6 ORS
S/O- LATE TURAB ALI, R/O- VILL- ULUBARI, WARD NO. 8, P.S. MOIRABARI,
DIST.- MORIGAON, ASSAM, PIN- 782126

2:THE STATE OF ASSAM

REP. BY THE PRINCIPAL SECRETARY
POWER (ELECTRICITY) DEPTT.
D-BLOCK
ASSAM SECRETARIAT
DISPUR
GHY-06

3:THE ASSAM POWER DISTRIBUTION COMPANY LIMITED (APDCL)
REP. BY THE CHAIRMAN
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
GHY-01

4:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
GHY-01

5:THE CHIEF EXECUTIVE OFFICER
MEC

APDCL
CAR
MORIGAON
ASSAM
PIN- 782105

6:THE ASSISTANT GENERAL MANAGER
MORIGAON ELECTRICAL DIVISION
APDCL
CAR
MORIGAON
ASSAM
PIN- 782105

7:THE SUB-DIVISIONAL ENGINEER
LAHORIGHAT ELECTRICAL SUB-DIVISION
APDCL (CAR)
LAHORIGHAT
DIST.- MORIGAON
ASSAM
PIN- 78212

Advocate for the Petitioner : MR. M A SHEIKH

Advocate for the Respondent : SC, APDCL

Linked Case : WP(C)/3561/2023

MD. SURHAB ALI
S/O- LATE TURAB ALI
R/O- VILL- ULUBARI
WARD NO. 8
P.S. MOIRABARI
DIST.- MORIGAON
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APDCL (CAR)

LAHORIGHAT

DIST.- MORIGAON

ASSAM

PIN- 782127

7:SRI JOY PRAKESH BERNEWAL

S/O- LATE KESHAB PRASHAD GUPTA

R/O- MOIRABARI

P.S. MOIRABARI

DIST.- MORIGAON

ASSAM

PIN- 782126

Advocate for : MR. U DUTTA

Advocate for : SC

APDCL appearing for THE STATE OF ASSAM AND 6 ORS

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

29.01.2024

1. Mr. M.H. Choudhury, learned counsel for the applicant submits that the order dated 21.06.2023 passed by this Court in WP(C) No.3561/2023 should be modified. He submits that the writ petitioner and the applicant are having a dispute with regard to title over shop Bheti No.195 (ka) at Moirabari Di-weekly Market vide Title Suit No. 245/2021 pending in the Court of learned Munsiff No.2, Morigaon. He submits that as the writ petitioner was in illegal possession over the shop, the applicant made a complaint to the state respondents, which resulted in the respondent authorities cutting of the electricity supply being given to the shop. However, due to the writ petitioner having approached this Court vide WP(C) 356/2023 which has been disposed vide order dated 21.06.2023, the writ petitioner's electricity connection is going to be reinstalled, as he has been given liberty by this Court to approach the respondent authorities to apply for a fresh electricity connection.

2. The applicant's counsel submits that in view of the above facts, the order dated 21.06.2023 passed in WP(C) No. 3561/2023 should be cancelled/modified.

3. Mr. K. Pathak, learned counsel appears for the respondent Nos. 3, 4, 5, 6 and 7 and Mr. B. Kumar, learned counsel appears for the respondent No.1.

4. On perusing the application submitted by the applicant, this Court finds that the present case is basically a challenge to the order dated 21.06.2023 passed by this Court in WP(C) No.3561/2023, which should be done by way of an appeal. Further, the applicant could have filed a review petition if he finds that any ground for review is made out. The issue of title to the shop which is in dispute between the applicant and the writ petitioner is pending before the Court of learned Munsiff No.2, Morigaon and

as such, the said issue will be decided by the said Court. With regard to whether a temporary or permanent connection should be granted to the writ petitioner, it would be profitable to rely on the judgment of the Hon'ble Supreme Court in ***Dilip (Dead) through LRs. Vs. Satish and Ors.*** in ***Crl. A. No.810/2022***, wherein the Hon'ble Supreme Court has held that a person cannot be deprived of electricity and that all the electricity supply authorities is to examine, is as to whether the applicant for the electricity connection is in occupation of the premises in question.

5. In that view of the matter, this Court does not find any ground to modify or cancel the order, keeping in view the facts and circumstances of the case.

6. The I.A. is accordingly dismissed.

JUDGE

Comparing Assistant