

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10855 of 2016

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Smt. Manoj Devi @ Mano Devi, Daughter of Sri Tarkeshwar Prasad, wife of Sri Satyendra Kumar presently residing at Takiyapar Danapur, Post Office- Digha, Police Station- Danapur, District- Patna.

.... Petitioner/s

Versus

1. Bihar State Power (Holding) Company Ltd., Patna through its Managing Director having office at Vidyut Bhawan, Bailey Road, Police Station- Kotwali, District- Patna.
2. South Bihar Power Distribution Co. Ltd., through its Managing Director having office at Vidyut Bhawan, Bailey Road, Police Station- Kotwali, District- Patna.
3. Electrical Executive Engineer, South Bihar Power Distribution Co. Ltd., Danapur Division, having office at Bailey Road, near Ishan International School, Police Station- Rupashpur, District- Patna.
4. Asst. Electrical Engineer, South Bihar Power Distribution Co. Ltd., Danapur Division having office at Ramjee Chak Digha, Post- Bataganj, Police Station- Digha, District- Patna.
5. Junior Electrical Engineer, South Bihar Power Distribution Co. Ltd., Danapur Division, having office at Ramjee Chak Digha, Post- Bataganj, Police Station- Digha, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar, Advocate

For the Respondent/s : Mr. Sanjay Kumar Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-09-2016

Heard Mr. Vikash Kumar, learned counsel appearing for the petitioner and Mr. Sanjay Kumar Giri, learned counsel appearing for the respondents.

The limited prayer made in this writ petition is for an appropriate direction to the authorities of the South Bihar Power Distribution Company Limited, Bihar, Patna to provide domestic electrical connection to the petitioner. Although it is not in dispute that the formalities for obtaining electrical connection in respect of



the residential house of the petitioner bearing Holding no.86, Ward No.28 situated at Takiyapar, Danapur in the district of Patna, the same has not been provided on grounds that the property in question is in arrears of electricity dues at the hands of owner from whom it is purchased by the petitioner.

Learned counsel for the petitioner with reference to the copy of the sale-deed brought on record by the respondents submits that the vendor has mentioned that there are no Government dues to the property and thus there was no occasion for the petitioner to make any enquiry and it is believing the vendor that the property has been purchased and an application has been filed for obtaining the electricity connection.

A counter affidavit has been filed and it is stated that the property in question is in electrical dues against the vendor of the property amounting to Rs.58,497/-. According to the respondents, the petitioner is liable to pay the electricity dues before the connection can be provided to her.

I have heard learned counsel for the parties and I have perused the records.

The prayer made in the writ petition and the objection raised by the respondent-Company came up for consideration in a similar matter before this Court in a case reported in **2012 (4) PLJR page 701 (Archana Devi Vs. Chairman, B.S. Electricity**

Board) and this Bench has held that any arrears standing against the owner of a property cannot be foisted on the purchaser from him unless, it is established that the purchaser was in the knowledge of the dues. The case in hand is in identical situation and for identical reliefs.

In view of the position settled in the judgment referred to above, the respondents are under an obligation to provide electricity connection to the petitioner and a default on the part of the respondents in not taking expeditious measures for recovery of the dues from the owner of the property who is the vendor of the petitioner, cannot be an impediment to the relief prayed.

In fact the circumstances in which a new connection can be refused, is provided under third proviso to Clause 4.1 of the Bihar Electricity Supply Code, 2007 read along side Clause 4.15, which discusses the procedure for recovery and also makes it abundantly clear, that while the respondent Distribution Company has the jurisdiction for recovery of electricity dues from the defaulting consumers, the same cannot be a tool to reject an application filed by a purchaser/applicant of the property, which is running in arrears. The Supply Code in Clause 4.15(iv) discusses the extent to which the Distribution Company can involve a new applicant with the dues but it yet does not vest them with a jurisdiction to refuse electrical connection to a purchaser. The

position has been settled in the judgment rendered in case of **Archana Kumari** (supra) referred to above and which would be binding on the respondents.

For the reasons so discussed, the concerned authorities of the South Bihar Power Distribution Company Limited more particularly the respondent nos. 3 to 5 are directed to provide electric connection to the petitioner within a period of one week from the date of receipt/production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	02.10.2016
Transmission Date	NA