

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10078 of 2016

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Manoj Kumar Hisaria, S/o Late Kailash Prasad Hisaria, R/o Mohalla- Mungeriganj,
Ward No.12, Begusarai, P.S.- Town (Begusarai), District- Begusarai.

.... Petitioner/s

Versus

1. North Bihar Power Distribution Company Ltd. through its Managing Director, Patna.
2. The Managing Director, North Bihar Power Distribution Company Ltd., Patna.
3. The Executive Electrical Engineer, North Bihar Power Distribution Company Ltd., Electric Supply Division, Begusarai.
4. Assistant Electrical Engineer, North Bihar Power Distribution Company Ltd., Electric Supply Sub-Division, Begusarai.
5. Junior Electrical Engineer, North Bihar Power Distribution Company Ltd., Electric Supply Section, Urban-1, Begusarai.
6. Sri Sanjeev Kumar Agrawal, S/o Late Surendra Kumar Agarwal, R/o Mohalla- Mungeriganj, Ward No.12, Begusarai, P.S. Town, Begusarai, District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Sinha, Advocate Mr. Arvind K. Sharma, Advocate Mr. Chetan Kumar, Advocate
For the Respondent-Company	:	Mr. Anand Kumar Ojha, Addl. SC Mr. Ashok Karna, Advocate
For Respondent No.6	:	Mr. Sanjiv Sharan, Advocate Mr. Sanjay Kumar Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-08-2016

Heard Mr. Pramod Kumar Sinha, learned counsel appearing for the petitioner, Mr. Anand Kumar Ojha, learned counsel appearing for the Electricity Supply Company and Mr. Sanjiv Sharan, learned counsel appearing for the private respondent.

The petitioner is aggrieved by the order dated 21.5.2016 of the Junior Electrical Engineer, Electric Supply Circle, Urban-1, Begusarai, whereby his electricity connection has been

disconnected. The reason is absence of 'No Objection Certificate' from the owner of the premises.

Facts of the case briefly stated is that the petitioner along with one other namely Ajay Kumar Agrawal forming partnership in name of 'Shoe Palace' took a shop belonging to the private respondent and entered into a lease agreement dated 13.1.2003 for a period of ten years ending on 31.12.2012. A copy of the lease deed is present at Annexure-1. The details of the shop is at the foot of the lease deed and which measures 29 ft. x 10 ft. situated at ward no.12, khata no.106, khesra no.1319, holding no.228 (₹). It is following the lease deed that an application for electricity connection was made and was granted. Some dispute arose in between the partners and the other partner Ajay Kumar Agrawal applied for disconnection of the electricity granted to the premises described in Annexure-1 on 16.4.2015. In between the petitioner came in occupation of another shop besides the shop in question which was being operated in the name of the 'Wool House' and in respect of which an application for connection was filed on 17.12.2014 and was installed on 9.1.2015 vide Annexure-9 at page 78. Since the application for disconnection dated 16.4.2015 to the premises described in Annexure-1 was acted upon and was disconnected that this petitioner extended the connection granted to the other



premises being operated in the name of 'Wool House' to the lease hold premise being run in the name of 'Shoe Palace'. A complaint was filed by the landlord mentioning therein that the other premise in which 'Wool House' is running was never given on lease to the petitioner. The matter was enquired into by the electricity company and since all that the petitioner could produce was a lease entered in between the parties in relation to 'Shoe Palace' running in a different premise adjacent to the premise in question hence the connection granted to the petitioner on his application dated 17.12.2014 in absence of documents satisfying the statutory requirements underlying Clause- 4.13 of the Bihar Electricity Supply Code, 2007, was disconnected. Feeling aggrieved the petitioner is before this Court.

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

It is not in dispute that the premises leased out to the petitioner vide Annexure-1 has taken shape of a litigation giving rise to Eviction Suit No.2 of 2015 which is pending consideration before Munsif, Begusarai. In so far as the electricity connection granted to this leasehold premises is concerned, even when it was disconnected on an application filed by the then partner of the petitioner namely Ajay Kumar Agrawal, neither the petitioner



raised any objection nor protested against the disconnection. The reason is obvious and it is because in the meanwhile the petitioner had obtained a parallel connection in the adjacent premise in which he was running the business in name of 'Wool House'. It is from this premise that the petitioner continued to obtain electricity to the other premise in which the business in the name of 'Shoe Palace' is running and that is why the petitioner filed no objection.

The contest in between the parties having led to a litigation arising from the eviction suit in question, a complaint was filed by the private respondent before the Electrical Company and since the petitioner could not give any satisfactory document of a valid occupation in the shop in which the business of 'Wool House' was running nor could produce a 'No Objection Certificate' that it has been disconnected. The provisions of Clause 4.13 of the Bihar Electricity Supply Code, 2007 runs as under:

“4.13 The consumer shall furnish, along with the application form, attested true copies of following documents (details at Annex-1 & Annex-2). The licensee may ask for the original documents, from the consumer, if required, for verification.

(a1) Proof of ownership of the premises in the form of registered sale deed or partition deed or succession or heirship certificate or deed of last will,

OR

Proof of occupancy such as valid power of attorney or latest rent receipt or valid lease deed or rent agreement or copy of allotment order issued by the owner of the property,

OR

In case of supply for agriculture/irrigation pump set, the copy of Land Revenue receipt 'khata nakal' giving the Revenue Plot No. 'Khasara/khata' number of the field within which the supply is required.

- (a2) In case of tenant permission of landlord along with proof of ownership of the premises.
- (b) Approval/permission of the local/statutory authority, if required under any law/ statute.
- (c) In case of a partnership firm, partnership deed, authorization in the name of the applicant for signing the requisition form and agreement.
- (d) In case of a Public or Private Limited Company, Memorandum and Articles of Association and Certificate of Incorporation together with an authorization in the name of the applicant for signing the requisition form and agreement.
- (e) In case of application for power supply to stone crushers, stone polishing and hotmix plants, the following additional information shall also be furnished.
- (e1) Documentary evidence from the department concerned to show that he will be able to take requisitioned quantum of power supply for at least two years, or as specified in the agreement.
- (f) His permanent address.

The Consumer shall also intimate whether the service line and extensions, if any, shall be laid by the consumer or the licensee.”

The provisions of clause 4.13 of the Bihar Electricity Supply Code, 2007 requires a consumer to produce a proof of ownership, a proof of occupancy under a valid power of attorney, rent receipt, a lease deed or a rent agreement and in case of a tenanted premise, a permission from the landlord. Undisputedly in the present case even when there is a lease entered in between the parties in respect of the premise in which the business of 'Shoe

Palace’ is continuing, there is no such agreement for the premise in question where the business of ‘Wool House’ is running. The justification given by Mr. Sinha, learned counsel appearing for the petitioner regarding any oral agreement can only be adjudicated by a court of competent jurisdiction and not in writ jurisdiction.

In the uncontested circumstance, the disconnection cannot be held invalid requiring any interference but then since the lease deed present at Annexure-1 is yet to be determined by a court of competent jurisdiction and since the eviction suit is yet pending consideration before the court below hence the petitioner would be at liberty to apply afresh in regard to the lease-hold premise present at Annexure-1.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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CAV DATE	
Uploading Date	23.8.2016
Transmission Date	