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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 945/2016

TATA POWER DELHI DISTRIBUTION
LIMITED (TPDDL)

..... Petitioner

Through Mr.K.Datta and Mr.Manish Kumar
Srivastava, Advocates.

versus

ONKAR GIRI

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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20.09.2016

CM No. 34604/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM(M) 945/2016 and CM No. 34603/2016 (stay) and 34605/2016 (for calling records)

1. By the present petition, the petitioner seeks to impugn the order dated 05.09.2016 by which the trial court in a suit filed by the petitioner for recovery of unpaid electricity dues directed the petitioner to produce the policy of company regarding disconnection of supply in case there are arrears of electricity dues. The trial court noted that no policy has been filed. It directed the Legal Head of the petitioner Company to file their response with respect to the disconnection policy. The CEO was also directed to depute a suitable official to apprise the court about the status of the policy.

2. Section 56 of the Electricity Act, 2003 provides for disconnection of supply of electricity in case of default of payment. It provides that the licensee may after giving not less than 15 days clear notice in writing to such a person without prejudice to his rights to recover such sum by suit, cut off the electricity supply for that purpose. Clearly two independent remedies are provided to the petitioner, namely, disconnection of supply after giving requisite mandatory written notice and also to file a suit.

3. Obviously normally a supply company would disconnect supply in case of default in payment of dues as it is the most convenient method for effecting recovery rather than to await accumulation of unpaid arrears and thereafter, to file a suit. Presumably, in some cases on account of a vast consumer base of the petitioner, there may have been some lapse. However, a delay in disconnection cannot obviate the fact that the consumer has been consuming electricity without paying it dues. Liability to pay still survives.

4. In the light of the above position, the impugned order suffers from material irregularity. The said order is quashed. The petition stands disposed of.

5. Copy of the order be given Dasti under the signatures of the Court Master.

JAYANT NATH, J

SEPTEMBER 20, 2016
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