

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20092 of 2016

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Mukesh Kumar son of Binod Sah @ Binod Prasad Sah, resident of village Wajidpur
Bazar, Tajpur, P.S. Vidyapatinagar, District Samastipur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Energy Department,
Government of Bihar at Patna
2. The Managing Director, North Bihar Power Distribution Company Ltd. at 3. 3.
Bidyut Bhawan, Bailey Road, Patna
3. The Executive Electrical Engineer, Electrical Supply Division Dalsingsarai at
Dalsingsarai, District Samastipur
4. The Assistant Electrical Engineer, Electrical Supply Division Dalsingsarai,
District Samastipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Mukesh Kumar Jha, Advocate
Mr. Rakesh Kumar Soni, Advocate
For the Respondents : Mr. Anand Kumar Ojha, SC (BSPHCL)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-01-2017

Heard Mr. Mukesh Kumar Jha, learned counsel for the
petitioner and Mr. Anand Kumar Ojha, learned counsel for the
respondents.

With the consent of the parties, this writ petition has been
heard with a view to its final disposal at this stage.

Considering the nature of the dispute that has arisen herein,
I do not see necessity of awaiting of filing of a counter affidavit on
behalf of the respondents in this case.

The facts of the case briefly stated is that the petitioner is a
consumer with the North Bihar Power Distribution Company Ltd.
bearing Consumer no. D.S.S./7840499/B.P./D.S. 2/1043. It is not in



dispute that there is no default in payment of energy charges.

The grievance of the petitioner is that the electric connection of the house of the petitioner has been disconnected without any default. Mr. Anand Kumar Ojha, learned counsel for the respondents has drawn the attention of this Court on the dispute arisen in between the younger brother of the petitioner and his father regarding the house property in question, which the younger brother claims to have been gifted by his grand father. Learned counsel for the respondents also invited the attention of this Court to the order of the Civil Court dated 24.08.2016 present at annexure-6 to submit that a title suit has been filed by the petitioner's father against the younger brother, questioning the gift deed and for declaration of his right, title and interest thereon. He has submitted that the prayer for injunction made by the father of the petitioner restraining the younger brother of the petitioner from interfering with the right, title and interest of the property under Order 39 Rule 1 and 2 of the Code of Civil Procedure, has been allowed vide order dated 24.8.2016 passed in T.S.No. 38 of 2016 by the Sub-Judge-I, Dalsingsarai and the defendant no.1 who is younger brother of the petitioner has been restrained from interfering with the property in question of the plaintiff who is father of the petitioner.

Having heard learned counsel for the parties and in the circumstances existing therein, and in absence of any default by the



petitioner or his father in making payment of the electricity dues, it is highly arbitrary and an abuse of power by the respondent concerned in disconnection of the electric connection of the house of the petitioner.

The dispute on property cannot be a reason for disconnection of electric connection of the consumer specially when there is no default in payment of the electricity dues. In any event, in view of injunction order in favour of the father of petitioner present at annexure-6, the order of disconnection of electric connection of the house of the petitioner is held illegal and is accordingly, quashed.

Let the electric connection of the house of the petitioner bearing Consumer no. D.S.S./7840499/B.P./D.S. 2/1043 be restored forthwith within a period of 48 (forty-eight) hours from the date of receipt/production of a copy of this order. Since the order is being passed in open Court, let it accordingly be communicated by Mr. Anand Kumar Ojha, learned counsel for the respondents to the authority concerned for the needful.

The writ application is accordingly allowed.

(Jyoti Saran, J)

A.I./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2017
Transmission Date	NA

