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

Judgment pronounced on 20th November, 2017

+ W.P.(C) 9923/2015

TATA POWER DELHI DISTRIBUTION LTD Petitioner

Through Mr. Manish Srivastava and
Mr. Aditya Gupta, Advocates

versus

JAI PRAKASH TYAGI Respondent

Through Mr. Varun Kumar, proxy counsel

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

JUDGMENT

A. K. CHAWLA, J. (ORAL)

The instant petition has come to be filed seeking setting aside of the order dated 13.07.2015 passed by the Electricity 'Ombudsman'.

2. The impugned order came to be passed on an appeal filed by the respondent seeking disconnection of the electricity connection installed in the premises bearing Khasra No.16, Gali No.2, Sangam Vihar, Village Wazirabad, Delhi, in short 'the property'.

3. It was the off-shoot of an issue agitated by the respondent as regards the title/ownership of the property, where, the petitioner had installed the electricity connection, in 'the property', in respect

whereof, dispute was pending adjudication before the SDM (Civil Lines). ‘Ombudsman’ disposed off the subject matter, with the observations and the directions, as follows:

“.....
.....

Since the entire process has taken almost one year from the time that the appeal was filed, it is clear that the DISCOM had erred in releasing the electricity connection before correctly identifying the property in question. Since the appellant had to undergo difficulties in approaching this forum as well as in finalizing petitions before the CGRF, for the purpose, he needs to be compensated with an amount of Rs.15,000/- which may be paid to him separately and the matter closed.

The DISCOM is free to carry out any further exercise required for identifying the correct property in case the application for release of electric connection is still pending. This would be with the help of concerned Revenue authorities who are to be involved in this issue. However, this connection should be released after the above due diligence to avoid further legal proceedings either in the CGRF or before this forum. In future, in such cases, the assistance of Revenue authorities should be sought in advance so that no confusion arises.”

During the course of hearing, Mr. Srivastava, Id. counsel for the petitioner submits that though the directions given by the Ombudsman vide the impugned order, as regards the release of electricity connection, stand fully complied with, to which Id. counsel appearing for the respondent concedes, the petition is pressed only as regards the direction given by ‘the Ombudsman’ to the effect that, in future, in such cases, the assistance of Revenue authorities should be sought in advance, so that, no confusion arises. It is strenuously contended that such procedure to be followed by the petitioner is beyond purview of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007, in short ‘the Regulations’. In the submissions of

Mr. Srivastava, ld. counsel for the petitioner, if, such directions are to be followed in every case, it shall create serious practical difficulties, besides, the question, as to who shall pay the expenses thereof. To substantiate such plea, Mr. Srivastava draws advertence to communication No.F.SDMC/CL/2015/2456 dated 07.07.2015, whereunder, Tehsildar (Civil Line) has asked for deposit of charges for Total Station Method (TSM), which is invited for demarcation.

4. Though, the impugned directions of 'the Ombudsman' *ipso facto*, are widely worded to bring within its scope only some exceptional cases of like nature, the direction, is, in effect, procedural in nature only. Such procedural directions, even, if, are not embodied in 'the Regulations', cannot be construed to be in violation thereof. In that view of the matter, the impugned direction, in my considered view, cannot be construed to be without jurisdiction. Simultaneously, however, sight may not be lost of the fact that the exercise for the purpose is to be undertaken by the revenue authority. Of course, it would not be an easy exercise, especially, with regard to the unauthorised colonies and it shall put an applicant seeking electricity connection, a necessity for a good human living, to delay and great hardship. In that view of the matter, the concern expressed by the petitioner, invites redressal to a limited extent that such direction need to be followed only in exceptional cases, where, the situation seriously warrants.

5. Keeping in view the totality of the facts and circumstances, the petition is disposed off with the modification to the impugned order to

the effect that the direction contained as regards the petitioner seeking assistance of the Revenue authorities to be sought in advance so that no confusion arises, should be construed liberally, and be followed, as far as possible, where, the situation so strictly, warrants.

6. Petition as well as pending application stands disposed off accordingly.

A. K. CHAWLA, J

NOVEMBER 20, 2017

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