

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17619 of 2017

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Ajay Kumar, S/o- Late Nand Kishor Prasad, proprietor of Pushpam Vastralay,
S-112 Khetan Super Market, 2nd Floor, Birla Mandir Road, P.S.- Pirbahor,
District- Patna.

.... Petitioner/s

Versus

1. South Bihar Power Distribution Company Ltd. through its Chief Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. Chief Managing Director, Bihar State Power Holding Co. Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. Chief Engineer-cum- General Manager (PESU), Bihar, Patna.
4. Executive Engineer (Electricity), New Bankipur Div., Bandar Bagicha, Patna.
5. Junior Electrical Engineer, Electric Supply Section, Bankipur, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashwini Kumar Gupta, Adv
Mr. Baidyanath Thakur, Adv

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

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-06-2018

I.A. No. 4547 of 2018

The interlocutory application has been filed with a prayer for amendment by adding the following prayer in the main writ application in view of Annexure-B of the counter affidavit by issuance of a writ in the nature of certiorari –

(iii) For quashing the letter dated 07.11.2017 (Annexure-B) whereby the prayer of the petitioner to get electric connection in the “Pushpam Vastralay” located at shop no. 112, Khetan Super Market, 2nd Floor, Birla Mandir Road, P.S. Pirbahore, District Patna was rejected on the ground that he



did not make available the required documents with respect to that tenanted shop.

2. Having regard to the nature of the prayer, the Interlocutory Application is allowed and the same shall be treated as forming part of the main writ petition.

CWJC No. 17619 of 2017

3. The present writ petition has been filed for the following reliefs—

(i) For a direction to the Junior Electrical Engineer, New Bankipur Division, Bandar Bagicha, Patna (Respondent no. 5) to give electric connection to the petitioner in his shop named and styled as “Pushpam Vastralay” located at shop no. 112, Khetan Super Market, 2nd Floor, Birla Mandir Road, P.S. Pirbahore, District Patna.

(ii) Any other order/s may be passed, direction/s be issued and relief/s granted with the petitioner is entitled to in the facts and circumstances of the case.

(iii) For quashing the letter dated 07.11.2017 (Annexure-B) whereby the prayer of the petitioner to get electric connection in the “Pushpam Vastralay” located at shop no. 112, Khetan Super Market, 2nd Floor, Birla Mandir Road, P.S. Pirbahore, District Patna was rejected on the ground that he did not make available the required documents with respect to that tenanted shop.

4. Learned counsel for the petitioner makes a short



submission to the effect that the document required from the petitioner, who is a tenant, cannot be furnished in view of inimical relations with the landlord. The petitioner is in occupation of the premises which is being resisted by the landlord for which Eviction Suit No. 529 of 2014 has been filed and is pending in the Court of Ist Sub Judge, Patna. It is therefore, submitted that it is not possible to furnish the requisite documents. Reliance is placed on a judgment dated 03.05.2017 passed by a Co-ordinate Bench of this Court in CWJC No. 2963 of 2017 (Ashok Kumar vs. the Principal Secretary, Department of Energy, Bihar, Patna and Others).

5. Learned counsel for the respondents refers to paras 8 and 9 of the counter affidavit, and relies upon Clause 4.13(A/a2) of the Bihar Electricity Supply Code, 2007 (for short 'the Supply Code') which requires a tenant to furnish the permission of the landlord along with proof of ownership of the premises. It is stated that the requisite documents were however not furnished, hence, the application for new electric connection by the petitioner was rejected by the impugned letter no. 280 dated 07.11.2017.

6. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. In a similar matter in CWJC No. 2963 of 2017 this Court took note of the



provisions of Clause 4.13(A) of the Supply Code and came to the following conclusion—

“Clause 4.13A itself shows that a person who wants a connection must furnish the proof of ownership of the premises such as valid power of attorney or latest rent receipt or valid lease deed or rent agreement or copy of the allotment order issued by the owner of the property should be attached with application. As in the present case petitioner himself in litigation with the owner itself shows that petitioner is in occupation of the premises and this Court also cannot overlook the provisions of Clause 4.13 (B) which has been inserted after the judgment of the Hon’ble Supreme Court by which even Panwala, shops, Jhughi Jhopri, slum settlers etc. even the encroachers of the Government land who are unable to furnish proof of ownership of premises shall be allowed to take electric connection.

In such view of the matter, this Court directs the respondent authority to accept the application of the petitioner and if the petitioner pays the proper fee the respondent authority is directed to give power connection within a period of 30 days from the date of filing of the application. The respondent authority will be at liberty to fix pre-paid electric meter. “

7. Learned counsel for the respondents has not been able to show that the said judgment would not be applicable in the case of the petitioner.

8. In the above circumstances, the writ petition is disposed of



in line with and on the same terms as the judgment dated 03.05.2017 passed in CWJC No. 2963 of 2017, as aforesaid.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2018
Transmission Date	NA

