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

+ **W.P.(C) 8375/2016, CM No. 34664/2016**

MANJEET SINGH

..... Petitioner

Through: Mr. Mohd. Azam Ansari, Adv.

versus

BSES (RPL) & ORS

..... Respondents

Through: Mr. Arnav Vidyarthi, Adv. for R1.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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19.04.2018

CM. No. 34664/2016 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 8375/2016

1. This petition has been filed by the petitioner with the following prayers:

“In view of the above it is, therefore most respectfully prayed that this Hon’ble Court may graciously be pleased: -

a. Issue a writ of mandamus directing the respondent to provide new electricity connection to the petitioner forthwith at the second floor of the premises, i.e., WZ-122, Gali No. 7, Shiv Nagar, Janakpuri, New Delhi, as applied by the petitioner on 12.09.2016 vide his application no. 8002536954 dated 12.09.2016.

b. Pass any such order (s)/ direction (s) as this Hon’ble Court deems fit and proper in the facts and circumstances of this case and in the interests of justice.”

2. It is the case of the petitioner that on September 6, 2016, electricity connection of his premises i.e. Second Floor of property no.WZ-122 Gali No. 7, Shiv Nagar, Janakpuri, New Delhi was disconnected by the respondent. Petitioner filed a writ petition being W.P.(C) 8000/2016. The same was disposed of on September 8, 2016 binding the respondent of the statement that they have not disconnected the electricity connection and observed that petitioner shall be at liberty to file appropriate proceedings in accordance with law. Subsequently, the electricity connection was restored. It is also the case of the petitioner that he has been suffering since 2015, disconnection of electricity at his premises every now and then as the electricity connection is not in his name although he is residing in the premises for the last 22 years, since 1994. Petitioner decided to have his own electricity meter and ultimately applied for new electricity connection with the respondent. On September 15, 2016, respondent declined to give an electricity connection to the petitioner on the ground that he does not have title of the property. In other words, the application was rejected as the documents being incomplete.

3. Respondent has filed its counter-affidavit, from which it is noted that petitioner in order to be eligible for grant of electricity connection has to mandatorily fulfil the requirement under Section 16 read with Annexure 1 of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007 which contemplates certain documents to be submitted.

4. It is the case of the respondent that petitioner did not have the requisite documents to prove the ownership over the property where he is seeking installation of new electricity connection. That apart, it is also stated that the petitioner has a dispute with his sister namely Ms. Sant Kaur

in respect of the ownership of the said property which is pending adjudication in Civil Suit No. 555/2016 before the District Court, Tis Hazari.

5. The learned counsel for the petitioner at the outset relied upon Section 43 of the Electricity Act, 2003 to contend that title to the property is not pre-requisite for electricity connection. According to him, even an occupier can apply for an electricity connection. He also states documents between Pages 41 to 53 of the petition, being Adhar card, driving licence, ration card and the passport amply proves that the petitioner is a resident / occupier of the property in question where the connection is sought. He also concedes to the fact that there is a litigation pending between the petitioner and his sister before the District Court over the ownership of the property.

6. On the other hand, learned counsel for the respondent reiterates the stand taken in the counter-affidavit. He also states, in terms of the code certain documents as mandated are necessarily to be submitted before the respondent can provide the electricity connection.

7. Having heard the learned counsel for the parties, there is no dispute with regard to applicability of Section 43 of the Act while granting electricity connection. The same is reproduced as under:-

*“43. **Duty to Supply on request.** Save as otherwise provided in this act, every distribution licensee, shall, on an application by the owner or occupier of any premises, given supply of electricity to such premises, within one month after receipt of the application requiring such supply.”*

8. The same stipulates that even an occupier can apply for electricity connection. If that be so, in terms of the documents submitted by the

petitioner at Pages 41 to 53 in the petition, there cannot be any dispute that the petitioner is a resident of WZ-122, Gali No. 7, Shiv Nagar, Janak Puri, New Delhi. It is also represented by him in the writ petition that he is occupying the second floor of the said property. If that be so, the requirement of the Section 43 of the Act is fulfilled. The plea of the respondent in their counter-affidavit and also contended by its counsel does not hold good that an applicant necessarily to provide title documents. He conceded to the fact that the documents of occupancy would only be (a) GPA (b) Possession letter (c) Rent receipt with proof of ownership of landlord (d) Lease Agreement.

9. In so far as the production of the aforesaid documents are concerned, petitioner cannot produce the same in view of the pending dispute he has with his sister which, as I am informed, is with regard to ownership of the property. If that be so, document as submitted by the petitioner showing his proof of residence at WZ-122, Gali No. 7, Shiv Nagar, Janak Puri, New Delhi would suffice for grant of connection.

10. Accordingly, the petitioner shall submit a fresh application with all the documents annexed by him between Pages 41 to 53 of the petition within four weeks from today, which shall be considered by the respondent and electricity connection shall be granted at the aforesaid property (second floor) by way of a separate meter. The aforesaid shall be subject to petitioner depositing an amount of Rs.5,000/- as security deposit, which shall not be adjusted against any future bills and further the petitioner completing other commercial formalities.

11. It is made clear this court has not decided the title of the petitioner to the property nor this Court has expressed itself on the dispute pending

adjudication before District Court Tis Hazari, Delhi.

The petition is disposed of. No costs.

V. KAMESWAR RAO, J

APRIL 19, 2018*/jg*