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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1225/2018 & CM APPL. 41915/2018
DILIP KUMAR GUPTA Petitioner
Through Mr. Shesh Datt Sharma, Adv.

versus

BSES YAMUNA POWER LTD Respondent
Through None.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **08.02.2019**

In terms of the order dated 08.10.2018, the records of the CS No. 267/2018 pending before the Trial Court of the learned JSCC/ASCJ/GJ (East), KKD, Delhi and the records of the suit bearing no. 9185/2016 of the Court of the learned Civil Judge, East, KKD, Delhi in the physical form have been received and perused.

The petitioner assails the impugned order dated 02.08.2018 of the Court of the learned JSCC/ASCJ/GJ (East), KKD, Delhi in CS No. 267/2018 vide which Shiv Shakti Sansthan has been directed to be impleaded on record as the defendant no. 2 to the suit. It has been submitted on behalf of the petitioner that the petitioner does not accept Shiv Shakti Sansthan as the owner of the suit property in as much as the documents of the said proposed impleaded defendant are not having any valid sale deed. It has further been submitted on behalf of the petitioner herein that the petitioner has been deprived of the electricity for a long time.

A perusal of the plaint before the learned Trial Court in CS No.

267/2018 out of which the impugned order arises indicates that it is a suit for declaration and mandatory injunction for restoration of the electric supply filed by the plaintiff i.e. the present petitioner against BSES Yamuna Power Ltd., in which the prayer made is to the effect : -

“a). to pass a decree for Declaration, in favour of the Plaintiff as against the defendant declaring that the Plaintiff is entitled for installation of a new Electric Connection in his own name in the suit premises or for restoration of his electric supply as had been using there in the past i.e. on Ist floor of Plaintiff’s residence and in the shop of the plaintiff on ground floor of the property No. 3/130, Lalita Park, Laxmi Nagar, Delhi – 92.

b). To pass a Mandatory Injunction in favour of the Plaintiff as against the defendant directing the defendant to install a new Electric Connection in the name of the plaintiff in the suit premises occupied by the plaintiff in the suite premises i.e. on Ist floor of his residence and in the shop of the plaintiff on ground floor of property No. 3/130, Lalita Park, Laxmi Nagar, Delhi – 92 in addition to and in lieu thereof damages @Rs.1000/- only per day.

c). To award cost of the suit.

d). To pass any such other or further orders which in the circumstances of the case, the Hon’ble Court deem just and proper in favour of the Plaintiff as against the defendant.”

It is also indicated on a perusal of the said plaint, that vide paragraph – 9 thereof it is alleged that the defendant was allegedly malafidely not

restoring the supply of the electricity to the plaintiff on the false and fabricated grounds asking for the title in the property or to obtain an NOC from its owner.

As the impugned order reflects on the basis of the proceedings dated 22.11.2016 in suit bearing no. 9185/2016 titled as ***Dalip Kumar Gupta Vs. BSES Yamuna Power Ltd.*** that the respondent as the defendant in the suit and another defendant Shiv Shakti Sansthan has been observed to be appearing to be owner of the suit property and taking into account the learned Trial Court has impleaded the said Shiv Shakti Sansthan to be impleaded as the defendant no. 2 to the said suit, there appears to be no infirmity in the impugned order and there is no ground for any interference in terms of the Article 227 of the Constitution.

However, the learned Trial Court is directed to expeditiously dispose of the prayers that have been made by the petitioner seeking restoration of the electricity as an interim prayer appears to have been made vide the application under Order 39 Rule 1 & 2 of the CPC dated 23.03.2018 placed at pages 79, 80 & 81 of the learned Trial Court in the CS No. 267/2018, which application is directed to be disposed of within a period of one month of the receipt of this order.

The petition is disposed of.

The records of the learned Trial Court requested in terms of the order dated 08.10.2018 are directed to be returned forthwith.

ANU MALHOTRA, J

FEBRUARY 08, 2019/MK