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

+ W.P.(C) 4107/2020 & CM APPL. 14714/2020 (interim relief)

USHA GOEL

..... Petitioner

Through: Mr. Nitin Garg and Ms. Neha Garg,
Advocates.

versus

TATA POWER DELHI DISTRIBUTION LTD. & ANR.

..... Respondents

Through: Mr. Manish Kumar Srivastava,
Advocate for R-1.
Mr. Shlok Chandra, Ms. Mansie Jain
and Mr. Chandratanay Chaubey,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **10.07.2020**

1. The hearing was conducted through video conferencing.
2. Issue notice.
3. The learned counsels named above accept notice on behalf of the respondents.
4. This petition seeks the following relief:

“ It is, therefore, respectfully prayed to this Hon'ble Court that the impugned bill dated 03.06.2020 in respect of C.A. No. 60015140134 may kindly be set aside & quashed and the respondents be directed to send a correct electricity bill w.e.f.

10.03.2020 till 23.03.2020 only and thereafter w.e.f. 01.06.2020 onwards calculating the fixed charges for those days only and removing the fixed charges & other charges based on fixed charges w.e.f. 23.03.2020 to 31.05.2020, with cost of the petition.

Any other order which this Hon'ble Court deems just and proper may also be passed in favour of the petitioner and against the respondents.”

5. The petitioner contends that because of the pandemic related lockdown, the petitioner was prevented from using her premises, therefore, the fixed charges cannot be levied.
6. The learned counsel for respondent no.1 submits that the fixed charges have been calculated at the rate of Rs.250/- per kv, which, as per the connected load adds up to Rs.19,250/- per month and for 52 days the amount comes to roughly Rs. 52,000/-. Therefore, there is no cause of action and the petition is baseless.
7. This Court in RC. REV. 447/2017 titled *Ramanand & Ors. v. Dr. Girish Soni & Anr.*, decided on 21.05.2020, dealt with a similar issue while deciding claim for waiver of rent due to non-use of property on account of lockdown due to the COVID-19 pandemic, *inter alia*, as under:

“25. ...

In view of the above settled legal position, temporary non-use of premises due to the lockdown which was announced due to the COVID-19 outbreak cannot be construed as rendering the lease void under Section 108(B)(e) of the TPA. The tenant cannot also avoid payment of rent in view of Section 108(B)(l)...”

8. The petitioner's contention is untenable because the respondent continues to discharge its responsibility of providing the essential service/electricity to the city despite the lockdown. R-1 is not being funded for its own fixed costs in ensuring the essential service. The respondent's unhindered operation is premised on receipt of an assured fixed revenue, which the respondent has to expend towards its establishment charges. Interestingly, the petitioner does not dispute the consumption charges of Rs.20,219 nor has the waiver been sought on grounds of *force majeure*.
9. In view of the above, the petition, alongwith pending application, is dismissed.
10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JULY 10, 2020

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