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

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Judgment delivered on: 14.08.2020

+ CM(M) 418/2020

RAM PAL

..... Petitioner

versus

TATA POWER DELHI DISTRIBUTION LTD. Respondent

Advocates who appeared in this case:

For the Petitioner : Dr. L.S. Chaudhary with Mr. Ajay Chaudhary and Mr. Manoj Bhagat, Advocates.

For the Respondent: Mr. Manish Srivastava, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.18981/2020 (exemption from filing certified copies)

Exemption is allowed subject to all just exceptions.

CM(M) 418/2020 & CM APPL.18980/2020 (stay)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 07.08.2020 whereby, in the suit filed by the petitioner, Trial Court merely issued notice and did not grant an ex-parte ad interim injunction restraining the respondent from disconnecting the electricity supply.

3. Learned counsel for the petitioner submits that the petitioner has been litigating with the respondent for several years with regard to the electricity bill and the Trial Court without noticing the urgency simplicitor issued notice without granting an ex-parte ad interim injunction and adjourned the matter to 26.11.2020.

4. Learned counsel for the petitioner further submits that after the filing of the present petition, electricity has been disconnected.

5. Learned counsel appearing for the respondent, on advance notice, submits that the Suit filed by the petitioner is not maintainable before the District Judge as the same is specifically barred under Section 145 of the Electricity Act, 2003 and the petitioner should have approached the Appellate Authority under Section 127 of the Electricity Act, 2003. He submits that the petitioner is liable to pay a sum of Rs.20 lakhs over and above the current demand of Rs.2,71,658/-.

6. Learned counsel for the petitioner further submits that the District Judge is exercising the powers of the Appellate Authority and as such, he has filed the suit before the concerned District Judge.

7. Learned counsel for the petitioner further submits that current demand of Rs.2,71,658/- has already been deposited with the concerned authority on 13.08.2020.

8. Learned counsel for the petitioner further points out that by notice dated 30.07.2020, 15 days time was granted to the petitioner to pay the amount and the electricity was disconnected prior to the expiry of 15 days period.

9. Keeping in view the facts and circumstances of the case, it is directed that the petitioner shall pay a sum of Rs.5 lakhs, on account, besides clearing the current demand of Rs. 2,71,658/-, if not already paid and on payment of the same, electricity supply shall be restored subject to petitioner approaching the concerned Trial Court within a period of one week with an application for advancing the date and for taking up the application for grant of ad interim injunction on an early date.

10. It is clarified that the restoration of the electricity would be subject to further orders to be passed by the concerned District Judge. In case, the petitioner does not file any application within a period of one week from today, respondent would be at liberty to once again disconnect the electricity supply. Trial Court would be free to decide the plea of the respondent with regard to the maintainability of the suit as well as on merits without being influenced by anything stated in this order.

11. Parties shall appear before the concerned Trial Court on 21.08.2020 for further proceedings.

12. Petition is, accordingly, disposed of in the above terms.

13. All rights and contentions of parties are reserved.

14. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email.

AUGUST 14, 2020/ st

SANJEEV SACHDEVA, J