

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CWP-12891-2022 (O&M)
Date of decision: 16.11.2022**

M/S STRUTSOL ENERGY PRIVATE LTD.

.....Petitioner

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED AND ANR.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. Anurag Chopra, Advocate and
Mr. Vardaan Seth, Advocate
for the petitioner.

Mr. Shiv Kumar Sharma, Advocate
for respondents No.1 & 2.

VINOD S. BHARDWAJ, J. (Oral)

CM-10885-CWP-2022

The present application has been filed under Section 151 of the Code of Civil Procedure for placing on record the communication bearing Memo No. 5089 dated 13.07.2022 issued by the respondent No.2 and representation dated 15.07.2022 submitted by the petitioner as Annexures P-11 and P-12 respectively as well as seeking exemption from filing certified copies thereof.

Application is allowed as prayed for and communication bearing Memo No. 5089 dated 13.07.2022 issued by the respondent No.2 and representation dated 15.07.2022 submitted by the petitioner are taken on record as Annexures P-11 and P-12 respectively.

MAIN CASE

The instant petition has been filed Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondent No.2 to issue a new electricity connection at the premises purchased by the petitioner through an E-auction notice dated 18.12.2021 (Annexure P-1) conducted by the Bank of India situated at Village Bija, Tehsil Khanna, District Ludhiana vide sale certificate dated 31.03.2022 (Annexure P-3).

Learned counsel appearing on behalf of the petitioner contends that the petitioner-Company is an important brand in the renewable energy products and solution since 2006 and manufactures high quality channel nut and brackets across the country. The Bank of India had notified e-auction for sale of moveable and immoveable properties on 18.12.2021 under the SARFAESI Act, 2002 on “As is where is” “As is what is”, and “Whatever thereis” basis to be held on 28.01.2022 for recovery of bank dues. The petitioner participated in the aforesaid e-auction and showed its interest qua the factory land and building measuring 52 kanals-14 marlas situated at village Bija, Tehsil Khanna, District Ludhiana which is duly describing in para 4 of the present petition. The petitioner submitted the highest bid which was accepted for an amount of Rs. 5.31 crores by the Bank of India and the sale certificate dated 31.03.2022 was also issued in favour of the petitioner.

That upon inspection of the land and building/premises of the auction site in question, it transpired that the said premises was without an electricity connection. On enquiry, the petitioner came to

know that the previous owner M/s DRS Industries Private Limited had defaulted in payment of electricity dues against the said premises. An outstanding amount was reflected at Rs.34 lakhs approximately in the bill dated 11.10.2012. For effecting recovery of the said amount, a civil suit No.30 dated 10.05.2013 had been filed by the respondent-PSPCL against M/s GRS Industries Pvt. Ltd. The said suit was decreed vide judgment dated 02.02.2016 for an amount of Rs. 76 lakhs. It is contended that the respondents thereafter have preferred an execution application No.07 of 2021 before the Civil Court for effecting recovery. He contends that the electricity connection was not released to the petitioner due to pending aforesaid outstanding arrears against previous owner i.e. M/s GRS Industries Private Limited. The petitioner had submitted an application for issuance of the electricity connection and deposited an amount of Rs. 77,248/- for a load of 25 kilowatt. The same is however not disbursed. He contends that as the commercial interest of the petitioner gravely prejudice due to non-release of the electricity connection, without prejudice to his rights and without admitting the said liability, the petitioner is ready and willing to deposit an amount of Rs. 76 lakhs as reported by the respondent-authorities to be outstanding against M/s GRS Industries Private Limited within a period of 04 weeks. The aforesaid deposit is security and with a condition that in the event of the pending decree being satisfied in execution application No.07 of 2021, the amount of Rs. 76 lakhs as stated above and to be deposited as security be refunded to the petitioner.

Learned counsel appearing on behalf of the respondent is not in a position to controvert the said offer.

Taking into consideration the totality of the circumstances and also balancing equities and duly noticing that the competing interest of PSPCL stands redressed, the present petition is disposed of by observing that in the event of the petitioner depositing the amount of Rs.76 lakhs i.e. the amount outstanding against the previous owners M/S GRS Industries Private Limited within a period of 04 weeks and subject to their complying with other statutory requirements, the electricity connection be released in favour of the petitioner as per law forthwith and preferably within a period of 01 month of fulfilling the pre-requisite conditions. The above deposit is without prejudice to the right of the petitioner to seek refund of the same upon the decree being satisfied.

All the pending miscellaneous applications, if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

NOVEMBER 16, 2022

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No