

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

W.P.(C) 15525/2022

Date of Decision: 21.11.2022

IN THE MATTER OF:

PRADEEP KUMAR

..... Petitioner

Through: Counsel (Appearance not given)

versus

BSES YAMUNA POWER LIMITED & ANR.Respondents

Through: Mr. Sharique Hussain, Advocate for
Respondent No.1

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

MANOJ KUMAR OHRI, J. (ORAL)

1. At the outset, learned counsel for the petitioner submits that in the memo of parties, the petitioner's address has been inadvertently mentioned as *14149/910, A/2 Street No.8, Jagjivan Nagar, Loni Road, Shahdara Delhi-110093* whereas the correct address is *1449/910, A/2 Street No.8, Jagjivan Nagar, Loni Road, Shahdara Delhi-110093*.

2. It is noted that notice was directed to be issued to respondent No. 2 which as per office noting, stands served however, none is present for respondent No. 2.

3. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioner, who claims to be an occupant of property bearing No. *1449/910, A/2 Street No.8, Jagjivan Nagar, Loni Road, Shahdara Delhi 110093* (hereinafter, referred to as the 'subject

premises'), seeks direction to the respondent No. 1 to restore the electricity meter at the subject premises.

4. Learned counsel for the petitioner submits that the petitioner is an occupant in the subject premises and disputes are pending between the parties i.e., the petitioner and respondent No. 2 with respect to ownership of the subject premises. It is submitted that on 28.08.2021, respondent No. 1 disconnected the electricity supply of the subject premises.

5. Without prejudice to their rights and contentions, learned counsel for respondent No. 1, on instructions, submits that the electricity meter would be restored at the subject premises.

6. This Court deems it apposite to refer to the observations made by the Supreme Court in Dilip (Dead) through Lrs. v. Satish & Others, Criminal Appeal No. 810/2022, wherein it has been held as under:-

"It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.

xxx

The impugned order cannot be sustained and the same is set aside. The appeal is, accordingly, allowed.

Pending applications, if any, shall stand disposed of.

It is however made clear that electricity supply granted, shall not be discontinued, subject to compliance by the Respondents of the terms and conditions of supply of electricity by the electricity department including payment of charges for the same."

7. Keeping in view the aforementioned observations of the Supreme Court as well as without entering into the controversy with respect to

title/ownership of the subject premises, the present writ petition is disposed of in the following terms:

- (i) The petitioner shall make an application for grant of a fresh electricity connection within seven days from today.
- (ii) The respondent No. 1 shall process the said application for restoration of electricity connection forthwith without insisting on a NoC from co-owners.
- (iii) The petitioner shall comply with all the codal and commercial requirements of the respondent No. 1.
- (iv) The petitioner shall also deposit a sum of Rs.10,000/- with the respondent/BSES in addition to the regular security deposit that he is required to make under the rules or regulations.
- (v) The petitioner shall pay the consumption charges in accordance with the bills raised by the respondent No.1/BSES from time to time/till the time he occupies the subject premises.
- (vi) The petitioner shall not seek adjustment of the security deposit. However, on the petitioner vacating the premises and surrender of the electricity meter, he shall be entitled to refund of the security deposit subject to adjustment of any dues of the respondent No. 1.
- (vii) The respondent No.1/BSES shall be entitled to disconnect the electricity supply in case the petitioner fails to pay the electricity charges.

8. It is clarified that this order is without prejudice to the rights and contentions of the parties and shall not be construed as recognising rights of any nature whatsoever, including either the ownership, title or possessory rights of the petitioner with respect to the subject premises. It is also clarified that no special equities shall flow in favour of the petitioner on account of this order.

9. The writ petition is disposed of in the above terms. Pending application, if any, is disposed of as infructuous.

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 21, 2022

na

