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

Date of Decision: 30.10.2023

+ W.P.(C) 8528/2017
 UNITY INFOSOFT PRIVATE LIMITED Petitioner
 Through: Mr. Prithu Garg, Mr. Parth Bhatia,
 Advocates.

versus

TATA POWER DELHI
 DISTRIBUTION LIMITED Respondent
 Through: Mr. Manish Srivastava, Mr. Moksh
 Arora, Mr. Santosh Ramdurg, Mr.
 Yashg Srivastava, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN
PRATEEK JALAN, J. (ORAL)

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1. By way of this petition under Article 226 of the Constitution, the petitioner assails a “*Dues Intimation Letter*” dated 05.06.2017, by which the respondent – Tata Power Delhi Distribution Limited [“TPDDL”] has claimed dues amounting of Rs.4,002,347/- in respect of electricity supplied at the petitioner’s address in *KH.NO. 14/19/1 and 20/1, Ground Floor, Village Singhu, Landmark Lal Mehal Godam, Delhi.*

2. The impugned Dues Intimation Letter refers to two connections:-

A. Dues of Rs. 1,009,169/- against Mr. Mohan Lal Sethi [wrongly written as “Mohan Lal Salhi”], son of Mr. Kashi Ram Sethi, in respect of CA No. 60014041374;

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B. Dues of Rs. 2,993,178.00/- against Kirpal Engg. Works Pvt. Ltd.
in respect of CA No. 60014041465.

3. During the course of proceedings, the respondent has accepted that upon reconciliation of accounts, there are no outstanding dues *qua* CA No. 60014041465. The only dues in dispute, therefore, are of Rs. 1,009,169/- against Mr. Mohan Lal Sethi.

4. The petitioner claims to have purchased the subject property [*Land ad measuring 8 bighas in Khasra No. 14/19/1 and 20/1, Ground Floor, Village Singhu, Delhi – 110036*] from a company by the name of M/s Kirpal Engineering Works Pvt. Ltd. [acting through its director - Mr. Mohan Lal Sethi] by way of a sale deed dated 31.05.2013. It is stated in the writ petition that after purchase of the property, the petitioner found that electricity meter with CA No. 60003910555 was installed in the premises in the name of Mr. Raman Sethi [wrongly typed as Ramesh Sethi], son of Mr. M.L. Sethi. It was found that the aforesaid meter was energised on 24.09.2003. The petitioner claims to have continued using the aforesaid meter from June 2013 to February, 2017 and paid all bills in connection therewith.

5. Meanwhile, the petitioner applied for a fresh electricity connection on 18.03.2017 and requested the respondent to remove the old meter [CA No. 60003910555]. The respondent issued a meter removal form¹ on 16.03.2017, which shows that the meter was disconnected on 12.12.2016. Under the column “*Energy Bill Outstanding*”, outstanding dues of amount of Rs.6468.77/- have been claimed by the respondent, which the

¹ Annexure P-4 to the writ petition.



petitioner states was paid on 01.04.2017.

6. The dispute arises because the respondent has denied the petitioner's request for a new electricity connection on the ground of dues mentioned in the impugned letter dated 05.06.2017. As the dues with respect to connection No. 60014041465 are not pressed, it is now necessary only to deal with the dues with regard to meter CA No. 60014041374.

7. I have heard Mr. Prithu Garg, learned counsel for the petitioner, and Mr. Manish Srivastava, learned counsel for the respondent.

8. As far as these dues are concerned, the respondent has filed a status report dated 18.01.2018, in which it is stated that the aforesaid dues pertain to the period 04.01.1995 to 10.01.1995, 03.06.1996 to 31.03.1997, 01.04.1997 to 01.07.1997 and minimum guarantee charges for the period 01.07.1997 to 31.12.1997 as well as consumption charges for the same period. The respondent thereafter filed a counter affidavit dated 24.07.2019 reiterating the aforesaid position. In both the status report and the counter affidavit, the respondent has justified the dues with regard to the aforesaid connection.

9. Learned counsel for both sides have referred me to Regulations 15 and 46 of the Delhi Electricity Supply Code and Performance Standard Regulations, 2007 ["the Code"] and the judgments of this Court in *Madhu Garg & Anr vs. North Delhi Power Ltd.*² and *Raj Kumar vs. NDPL & Anr.*³ These judgments are principally on the question of whether a successor in interest in respect of a property can be denied an electricity

² 2006 SCC OnLine Del 451.

³ 2011 SCC OnLine Del 2528.



connection in respect of dues incurred by its predecessor in interest. The undisputed position, even according to Mr. Garg, is that the Division Bench of this Court in *Madhu Garg*⁴ has held that a successor in interest can be made so liable.

10. A coordinate Bench in *Raj Kumar*⁵, also noticed the judgment of the Supreme Court in *Swastic Industries vs. Maharashtra State Electricity Board*⁶, which held that denial of a fresh electricity connection is permissible even if the claim of the electricity supplier relates to dues which have since become barred by limitation. The Supreme Court drew a distinction between the remedy of filing a suit for recovery, and the right of the supplier to refuse a fresh connection based on the same dues. Although a distinction was drawn in *Raj Kumar*⁷, based upon the character of the premises in that case [a government accommodation for the use of its employees], that is admittedly irrelevant in the facts of the present case. Mr. Garg, therefore, accepts that a successor in interest in terms of the aforesaid judgment can be held liable for the dues of the predecessor.

11. However, Mr. Garg submits that in the facts of the present case, the respondent cannot be permitted to claim the said dues, as it had granted an electricity connection under CA No. 60003910555 in the very same premises thereafter. He draws my attention to paragraphs 2(b) and (d) of the writ petition, which read as follows:

“2. That the brief facts giving rise to the instant petition are as follows:

⁴ Supra (note 2).

⁵ Supra (note 3).

⁶ (1997) 9 SCC 465.

⁷ Supra (note 3).

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(b) An electricity meter bearing C.A. No. 60003910555 was installed at the said premises in the name of Mr. Ramesh Sethi S/o Mr. M.L. Sethi at the time of purchase of the subject premises by the petitioner. The aforesaid meter was apparently installed at the subject premises on or about 24.09.2003, i.e. the energisation date mentioned on the electricity bills pertaining to the said meter. At the time of transfer of the subject premises in its favour, the petitioner had enquired and was duly informed by the respondent that no substantial dues pertaining to the said meter were outstanding. After transfer of the subject premises, the petitioner continued using the aforesaid meter from June, 2013 to February, 2017 and duly paid all the bills raised by the respondent pertaining to the said meter/connection. True copies of few of the Bills pertaining to electricity meter bearing C.A. No. 60003910555 paid by the petitioner from June, 2013 to February, 2017 are enclosed herewith as Annexure P-3 (Colly).

*(d) Meanwhile, the petitioner had also submitted a request with the respondent for removal of the aforesaid old meter bearing C.A. No. 60003910555, whereupon the respondent raised a final demand of Rs. 6,468/- against the said meter/connection. The said sum of Rs. 6,468/- was paid by the petitioner by way of Demand Draft No. 677391 dated 30.03.2017 drawn on Canara Bank, Overseas Branch, New Delhi and a receipt bearing no. 1066280 dated 01.04.2017 was issued by the respondent in lieu of the same. Accordingly, the aforesaid meter/connection was disconnected by the respondent with effect from 12.12.2016. True copy of the Meter Removal Form pertaining to the last meter/connection bearing C.A. No. 60003910555 showing a final demand of Rs. 6,468/- is enclosed herewith as Annexure P-4. True copies of the Demand Draft No. 677391 dated 30.03.2017 for Rs. 6,468/- drawn on Canara Bank, Overseas Branch, New Delhi by the petitioner in favour of the respondent and a receipt bearing no. 1066280 dated 01.04.2017 for Rs. 6,468/- issued by the respondent to the petitioner are enclosed herewith as Annexure P-5 (Colly).*⁸

In the grounds in support of the writ petition also, the aforesaid ground has been taken in grounds C and D. Factually, the respondent has not disputed the aforesaid assertion of the petitioner in the counter affidavit.

⁸ Emphasis supplied.



12. Regulations 15 and 46 of the Code, which are relevant for the present purposes, read as follows:

“15. General

I The Licensee shall prominently display at all offices where application for new connection is accepted, the detailed procedure for new connection and the complete list of documents required to be furnished along with the application. No other document, which has not been listed, shall be asked to be submitted by the applicant. Rate/amount of security and cost of service line to be deposited by the applicant in accordance with the stipulation in the Regulations shall also be displayed.

ii Where applicant has purchased existing property and connection is lying disconnected, it shall be the duty of the applicant to verify that the previous owner has paid all dues to the Licensee and has obtained “no dues certificate” from the Licensee. In case “no-dues certificate” is not obtained by the previous owner, the applicant before purchase of property may approach the Business Manager of the Licensee for a “no dues certificate”. The Business Manager shall acknowledge receipt of such request and shall either intimate in writing outstanding dues, if any, on the premises or issue “no-dues certificate” within one month from the date of application. In case the Licensee does not intimate outstanding dues or issues “no-dues certificate” within specified time, new connection on the premises shall not be denied on ground of outstanding dues of previous consumer.

iii Where a property/premises has been sub-divided, the outstanding dues for the consumption of energy on such Premises, if any, shall be divided on pro-rata basis based on area of sub-division.

iv A new connection to such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premises is duly paid by the applicant. A Licensee shall not refuse connection to an applicant only on the ground that dues on the other portion(s) of such premises have not been paid, nor shall the Licensee demand record of last paid bills of other portion(s) from such applicants.

v In case of complete demolition and reconstruction of the premises or the building, the existing installation shall be surrendered and agreement terminated. Meter and service line will be removed, and only fresh connection shall be arranged for the reconstructed premises or building, treating it as a new premises after clearing the old dues on the premises by the consumer(s).

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46. Change of occupancy/vacancy of premises

i It shall be the responsibility of the consumer to get a special reading done by the Licensee at the time of change of occupancy or on the premises falling vacant and obtain no-due certificate from the Licensee.

ii The consumer shall request in writing to the Licensee for special reading to be taken at least seven days in advance of the said vacancy of the premises by the existing user or change of the occupancy, as the case may be.

iii The Licensee shall arrange for a special reading to be done and deliver the final bill, including all arrears till the date of billing, at least three days before the vacancy of the premises. The final bill thus raised shall mention that no other dues are pending on the premises and the bill is final. The final bill shall also include payment for the period between the date of special reading and date of vacancy of premises on pro-rata basis.

iv Once the final bill is raised, the Licensee shall not have any right to recover any charge(s), other than those in the final bill, for any period prior to the date of such bill. The Licensee shall disconnect the supply to the premises on its vacancy. It shall be the responsibility of the consumer to make the payment on vacation of the premises and the Licensee shall issue No-demand certificate on receiving such payment. However, in cases of change of occupancy, connection shall not be disconnected and after getting the commercial formalities for change of name, the same shall be affected.”⁹

13. I am of the view that the petitioner’s case is merited on a reading of Regulations 15(ii) and 46(iv) above. The petitioner has specifically stated in the writ petition that the electricity connection at the premises at the time when the petitioner purchased the premises was CA no. 60003910555. Upon the petitioner’s request, the respondent issued the meter removal form, which shows that the said connection was energised at the premises on 24.09.2003 and disconnected on 12.12.2016. The dues in respect to this connection were duly paid by the petitioner and no claim

⁹ Emphasis supplied.



in respect of this connection is made in the impugned dues intimation letter. The claim, instead, is with regard to period 1994 to 1997. It was open to the respondent to raise these claims either against the said consumer, or at the time of granting the connection under CA No. 60003910555.

14. The respondent's position, to the contrary, would enable an electricity supplier to grant connections to successive consumers despite pending dues, and then raise a claim in respect of prior dues against a future purchaser/occupant. I am of the view that this is not a reasonable understanding of the regulatory provisions. Although they permit a licensee to deny an electricity connection on account of dues of a prior owner, such a claim cannot be made after having already granted a fresh electricity connection to the same premises, without raising the claim. In the present case, the petitioner sought information with regard to the connection at the premises at the time of its purchase, and made payment of all dues in respect thereof. It could not have been expected to make inquiries with regard to possible dues against older connections, which had long since been disconnected, and fresh connections granted. There was no lack of diligence on its part.

15. In view of the aforesaid facts of this case, the writ petition succeeds and the respondent is directed not to insist upon the claim against CA No. 60014041374 as a condition for grant of fresh electricity connection to the petitioner.

16. As the petitioner had deposited an amount of Rs.3.5 lakhs with the respondent pursuant to order dated 05.02.2018, it is directed that the same be returned to the petitioner in terms of the aforesaid order within a

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period of four weeks from today. However, it is agreed by learned counsel for the parties that the amount will be refunded without interest.

17. The writ petition is disposed of with the aforesaid directions.

PRATEEK JALAN, J

OCTOBER 30, 2023

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