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

+ **W.P.(C) 4614/2021 & CM APPL. 14114/2021**

AVADESH RUHELA

.....Petitioner

Through: Mr. Manish Shanker Srivastava, Mr.
Surendra Kumar Maurya and
Mr.Saideep Kaushik, Advs.

versus

BSES YAMUNA POWER LTD & ORS.

.....Respondents

Through: Mr. Toshif Ahmed & Mr.Hashmat
Nabi, Advs for R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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12.08.2024

1. The petitioner in the instant case has prayed for the following reliefs:-

“a) pass writ, order or direction (s) in the nature of mandamus commanding the respondent No.1 & 2 to recover the electricity dues of Rs.12,06,589/- in regard of direct electricity theft from the respondent No.3 (previous owner); and

b) pass writ, order or direction (s) in the nature of mandamus commanding the respondent No.1 and 2 to restrain its employee or officials or agents from the recovery of Rs.12,06,589/- from petition in regard of direct electricity theft committed by respondent No.3; and

c) pass any such other writ/order or direction(s) on this Hon'ble Court may deem fit and proper in the interest of justice.”

2. This Court, in W.P.(C) 9215/2007 titled as ***Kishan Singh Shokeen v. BSES Rajdhani Power Ltd.***, has held as under:-

“11. However, the present is not the case where any of the exigencies as mentioned in the aforementioned paragraphs are met. More importantly, this is not the case wherein, any fundamental right of the



petitioner was violated. Moreover, the petitioner has all the rights to approach the Civil Court. Having considered the nature of the grievance raised in the writ petition, it is found that the alleged violations of Rules and Regulations, if any can also be gone into by the concerned Court. Essentially the issue whether the petitioner was involved in the alleged theft of electricity or not perhaps may not be amenable to adjudication by this court in exercise of the extraordinary powers conferred under Article 226 of the Constitution.

12. Therefore, in view of the observations made hereinabove, the petitioners are granted liberty to approach the Civil Court or avail any other remedy, available as per law, for ventilation of his/her grievances.

13. In the present batch of cases, the matters remained pending for quite a long time. In some of the cases, the stay was operating while in others, the matters were also sent for mediation. The respondent admittedly has not recovered the amount in question, therefore, under the aforesaid circumstances, there shall be no recovery proceedings as well as no disconnection of supply for a period of 90 days from today as is also undertaken by learned counsel for the respondent. On the petitioner approaching the concerned Court, let the same be decided in accordance with law, without being influenced by the observations made hereinabove.

14. With the aforesaid observations, the petition stands disposed of.”

3. Having perused the nature of the controversy involved in the instant petition, the Court is of the considered opinion that the petitioner can efficaciously ventilate his grievance in Civil Suit before the competent Court. As to who is essentially liable for the payment of the subject bill, will depend upon examination of various disputed facts.

4. Accordingly, reserving that liberty in favour of the petitioner, the instant writ petition along with pending application stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 12, 2024/MJ