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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 2050/2024, CRL.M.A. 19882/2024

JATIN DHAWAN

.....Petitioner

Through: Ms. Padma Priya and Mr. Armaan  
Arora, Advocates.

versus

BSES RAJDHANI POWER LTD & ORS.

.....Respondent

Through: Mr. Rishab Raj Jain Standing Counsel  
for BSES with Mr. Raghav Awasthi,  
Advocate.

Mr. Sanjeev Bhandari ASC with Ma.  
Anvita Bhandari, Ms. Charu Sharma,  
Mr. Arjit Sharma and Mr. Vaibhav  
Vats, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

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**10.07.2024**

**CRL.M.A. 19881/2024 (Seeking Exemption)**

1. Allowed, subject to just exceptions.
2. The application is accordingly disposed of.

**W.P.(CRL) 2050/2024**

3. A Criminal Writ Petition has been filed under Article 226 and 227 of the Constitution of India read with Section 482 Cr.P.C challenging the impugned Order dated 09.01.2024 vide which the learned M.M, District Court, New Delhi has dismissed the Complaint Case bearing No.CC/637094/2016 challenging the Order dated 18.03.2024 passed by BRPL, New Delhi.

4. It is submitted in the petition that the petitioner is the owner of



Ground Floor of K-38 A, Lajpat Nagar-2, New Delhi. The upper floors of the property in question have been illegally occupied by respondent No.4 to

5. There are ongoing disputes of the petitioner with respondent No.4 to 6 and the husband of respondent No.5 and 6 since 2012 and they harbour malice to cause harm/wrongful loss to the petitioner.

6. It is stated that on 10.12.2014, the previous tenant Nirmal Handloom House vacated the ground floor. The common electricity connection for both the Ground and the upper floors existed vide electricity connection CA No.100002225 in the name of the tenant. In mid December, 2014 the petitioner leased out the Ground Floor to Jagdish Sons i.e. respondent No.7 and 8 who opened their Show Room sometime in first week of January, 2015. The petitioner in February, 2015 applied for a new separate electricity connection after paying the outstanding joint bills against the erstwhile electricity meter in order to avoid any future disputes. In March, 2015 the erstwhile tenant Nirmal Handloom House illegally transferred the possession of the upper floors to respondent No.4 to 6 violating the Lease Deed dated 27.07.2007 stating that the possession was to be returned to petitioner, his father and respondent No.4 only.

7. Around March, 2015 a new electricity connection bearing CA No.151038947 with a capacity of 25 KW was installed exclusively for the ground floor. The rewiring was done for the Ground floor and the supply of electricity to the upper floors was disconnected to prevent any consumption of unauthorized electricity.

8. In August, 2016 the petitioner received a letter dated 28.07.2016 from BSES Rajdhani Power Limited informing that Rs.96878/- pertaining to the usage prior to vacation of the disputed property by previous tenant Nirmal Handloom, was outstanding and was reflected in the petitioner's bill



as unpaid dues. The new tenant refused to pay the bill. The pendency of the Bill was impossible as the petitioner had cleared the Bill of Rs.20730/- in February, 2015 when he had applied for the new electricity connection.

9. The petitioner thus, discovered that respondent No.4 to 6 in collusion with respondent No.7 to 8 had criminally trespassed into the petitioner's property to tamper with the electricity connection to extract electricity illegally. He also discovered that mischief had been played by tampering with the electricity meter, removing the Electric Leakage Circuit Breaker (ELCB) and drilling holes in the ceiling. It is claimed that all the aforesaid actions were done pursuant to criminal conspiracy amongst the respondent No.4 to 6 along with the new tenant/respondent No.7 and 8. The electricity theft was committed and even the signatures of the petitioner had been forged on the documents relating to installation of a lift. Such acts were likely to cause death by negligence since ELCB was removed making the property unsafe electrically thereby endangering the life of the petitioner because of the home furnishing business being carried out by respondent No.7 and 8.

10. A Police complaint was filed by the petitioner on 13.10.2016 and the complaints were also sent to the Commissioner of Police through email on 05.11.2016 and 16.11.2016. The response was duly received from the office of Police Commissioner.

11. Thereafter, the petitioner filed a Complaint under *Section 156(3) Cr.P.C.* on 21.11.2016 against respondent No.4 to 6, husbands of respondent No.5 and 6 before the Court of learned CMM vide Criminal Complaint Case bearing No.CC/637094/2016.

12. In December, 2016 the respondent No.4 to 6 again colluded with the respondent No.7 and 8 and paid only Rs.1,60,000/- out of the total bill of



Rs.1,63,680/- bill for the period from 1<sup>st</sup> October, 2016 to 26<sup>th</sup> November 2016 leaving an unpaid balance.

13. On 03.12.2016 the respondent No.7 and 8 the new tenants left the property prematurely without any formal Notice. Despite vacating, respondent No.4 to 6 continued to extract electricity illegally from the petitioner's meter. On 29.12.2016, the respondent No.4 to 6 obtained a new electricity connection bearing CA No.152069708 for the upper floors meaning that all prior actions were perpetrated to cause wrongful loss to the petitioner.

14. In March, 2017 the petitioner received an electricity bill of Rs.25420/- which was four times higher than the expected due to the accused's illegal electricity usage. The petitioner was unable to pay the bills for so long because of which the electricity connection was disconnected by the Department.

15. The petitioner then filed a Civil Suit titled *Jatin Dhawan vs. Pravesh Dhawan & Ors.* seeking damages from the tenants. In the Written Statements filed by Pravesh, Mudra and Shelly, Meena Mehta and Vikas Mehta, they admitted to connecting the electricity supply to the upper floors from the meter of the petitioner illegally and of making various structural changes to facilitate their illegal design.

16. The learned M.M vide Order dated 09.01.2024 dismissed the Complaint under Section 200 Cr.P.C. on the ground that it had no jurisdiction in this matter which pertained to electricity theft which is an offence under Section 135 of the Electricity Act, 2003.

17. Consequently, the petitioner filed a complaint dated 05.03.2024 with BRPL in terms of the Order of the learned M.M dated 09.01.2024. However, the Competent Authority of BRL also dismissed the complaint



vide Order dated 18.03.2024 on the ground that the supply was being used from the meter and no enforcement case could be tagged. Aggrieved by the said Orders of the learned M.M dated 09.01.2024 and the Order of the Competent Authority of BRPL dated 18.03.2024, the present petition has been filed.

18. The *grounds of challenge* are essentially are that the Court has failed to take note of the law laid down by the Constitutional Bench in A.R. Antulay vs. R.S. Naik (1988) 2 SCC 602, wherein the Apex Court had held that the basic fundamentals of administration of justice are that no man should suffer wrong by technical procedure of irregularity and the Court must do justice to the aggrieved party. Hence, the present petition has been filed against the impugned Order dated 09.01.2024 of the learned M.M and Order dated 18.03.2024 passed by BRPL.

19. The learned counsel on behalf of the respondent argued that essentially it is a landlord tenant dispute and not of electricity theft; therefore, the Order of the learned M.M and of BRPL does not suffer any illegality.

20. **Submissions heard.**

21. The petitioner, by way of his Criminal Complaint before the learned Metropolitan Magistrate, had made various allegations of electricity theft by the present and the erstwhile tenants. It was also claimed that the various electricity bills are outstanding, which have not been paid by the tenants. The learned Metropolitan Magistrate has rightly observed that any allegations of electricity theft, can be agitated by way of a Complaint either to the Electricity Department or can be presented before the Special Court dealing with the electricity matters. *Section 135 of the Electricity Act, 2003* defines the offence of electricity theft and *Section 153 of the Electricity Act,*



2003 provides for Constitution of Special Courts, to deal with the offences committed under the Electricity Act.

22. Learned Metropolitan Magistrate had rightly rejected the Complaint as not having jurisdiction in respect of the offences committed under the Electricity Act.

23. Pertinently, after the dismissal of the Criminal Complaint dated 05.03.2024, the petitioner had filed a Complaint before the BRPL but the same has also been rejected *vide* Order dated 18.03.2024, wherein it has been observed that it is essentially a landlord-tenant dispute whereby the tenants have used the electricity from the meter of the petitioner. It is categorically observed that since the electricity was being used through the meter, there can be no enforcement case that can be tagged.

24. From the Reply of the BRPL, it is evident that there is no case of electricity theft made out for which action was required to be taken by the Electricity Department. It is further observed that the dispute is essentially on recovery of electricity charges consumed by the present and the erstwhile tenants.

25. The Complaint has been rightly dismissed by the learned Metropolitan Magistrate and BRPL respectively. There is no merit in the present Petition, which is hereby dismissed.

**NEENA BANSAL KRISHNA, J**

**JULY 10, 2024**

**VA/RS**