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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5309/2012 & CM APPL. 9486/2014
BSES RAJDHANI POWER LTD. Petitioner
Through: Mr. Manish Srivastava and Mr. Moksh
Arora, Advs.

versus

VIPIN KUMAR Respondent

Through: None.

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+ W.P.(C) 5310/2012 & CM APPL. 9491/2014
BSES RAJDHANI POWER LTD. Petitioner
Through: Mr. Manish Srivastava and Mr. Moksh
Arora, Advs.

versus

ANSHUL ARORA Respondent

Through: None.

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+ W.P.(C) 5311/2012 & CM APPL. 9480/2014
BSES RAJDHANI POWER LTD. Petitioner
Through: Mr. Manish Srivastava and Mr. Moksh
Arora, Advs.

versus

RAMA ARORA Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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09.01.2024

1. *Vide* order dated 16.11.2023, since there was no appearance on behalf of respondents, court notice was issued to the respondent no.1. It was also observed as under:-

"It is made clear that if respondent No. 1 in these petitions are not represented on the next date of hearing, despite service, the hearing may proceed in their absence."

2. Even today, none has appeared on behalf of respondent no.1.



Accordingly, since these petitions are of year 2012, they have been taken up for consideration despite the non-appearance of respondent no.1.

3. The present petitions assail the order dated 13.03.2012 passed by the Consumer Grievance Redressal Forum whereby it was *inter-alia* held as under :-

“In the present case, the connections have been asked for different plots each of 11 KW for which the demand note for security deposits have already been issued. As such the consumer is entitled for the connection as asked by the consumer. As stated in the reply by BRPL that during site inspection plot no.4, 5 & 6 are found to be unified premises and will be used for single used/establishment. The consumer applied for a new connection of 50 KW on dated 10.05.2011 and thereafter vide letter dated 27.05.2011, a request was made that the connection is not required and now have re-applied the connections separately for each plot for which demand has not been issued and paid.

In the present situation, the consumer is entitled for the connection as applied by him, as such BRPL is directed to give the connection. In case thereafter, BRPL finds the change of status in the premises can take action as per law.

In view of this, the case is ordered to be closed and disposed off.

Orders of the Forum are required to be complied within 21 days of the receipt as per regulation 9(6) of guidelines issued by DERC vide Notification dated 11th March, 2004.”

4. The grievance of the petitioner made in the present writ petition/s is that the respondent no.1 is lawfully entitled only to the Mixed Load High Tension ("MLHT" hereinafter) and not the Non Domestic Low Tension ("NDLT" hereinafter). This is premised on the submission that the respondents in these petitions have in fact merged and clubbed plot no.4, 5 & 6, in respect of which electricity connection has been sought for the purpose of running a hotel therefrom. It is averred in the petition that the concerned hotel is having a required load of 163 KW and consequently qualifies for "MLHT" category and not "NDLT" category.



5. A perusal of order dated 14.12.2012 passed in these writ petition(s) reveals that this Court has already issued direction that the respondent no.1 be granted electricity connection of requisite load as sought by the respondent no. 1. The following directions were issued *vide* the said order dated 14.12.2012 :-

“1. As an interim measure, it is agreed by counsel for the parties that, without prejudice to the rights and contentions of the parties; subject to pleas raised by them in the pleadings before this Court; and on respondent no.1, each, (in all the three writ petitions) depositing Rs.6.00 lakhs with the petitioner, which amount shall be kept in a fixed deposit to enable it to earn interest, the petitioner will grant a load of 11 KW for three connections within two days of deposit of Rs.6.00 lakhs. This load will increase to 30 KVA, each, within four weeks from today and 50 KWS, each, within two months from today, subject to compliance of all commercial formalities by respondent no.1 for 50 KWS and subject to final outcome of the writ petition.”

6. Learned counsel for the petitioner submits that the electricity connection has been granted in terms of aforesaid directions and the said connections have been active and used uninterruptedly since 2012.

7. Also, it is noticed that vide order dated 02.07.2015, this Court recorded the statement of respondent no.1 to the fact that separate and distinct hotels have been running in three different premises which are the subject matter of these writ petitions.

8. An affidavit is also stated to have been filed by the respondent no.1 in each of these petitions, pursuant to the aforesaid order dated 02.07.2015. The affidavit filed in W.P (C) No. 5309/2012 reads as under :-

“ I, Vipin Kumar O/a Plot No. 5, near Arya Samaj Mandir, Green Park, New Delhi-110016, do hereby solemnly affirm and declare as under:-

1. That I am the respondent no.1 in the present case and as such well conversant with the facts and circumstances of the present case and competent to depose this affidavit.



2. That it is submitted that the premises bearing plot no.5, Near Arya Samaj Mandir, Green Park, New Delhi-110016 is an individual plot being separate from the adjoining plots no. 4 & 6. Although the hotels on three plots were being run in the name and style of “Hotel Stallions”, however, were being run separately over three different plots. The factum of individual of the three plots is strengthened by the following facts:

a. Premises no. 4, 5 and 6 have been purchased by way of respective sale deeds by three different people.

b. To carry out the construction over the said plot a construction plan {independent} of {construction plan} of premises no.4 and 6 was gotten sanctioned from respondent no.2 meaning thereby, that not only the plot but also the superstructure over the plot are independent of plot no. 4 & 6. It is therefore, relevant to state that super structure over plot no.5 is a separate building altogether without any common access to the adjoining buildings/plots in any way of manner.

c. It is pertinent to submit that the distribution box and meter of plot no.5, Near Arya Samaj Mandir, Green Park, New Delhi-110016 is separate from electricity meters of the adjoining properties. It is further pertinent to state that there is {no inter-dependency or mixing of load} on the said meters nor is there any supply of electricity to the adjoining buildings from plot no.5.

d. Plot no.5, Near Arya Samaj Mandir, Green Park, New Delhi-110016 has been given by the respondent no.1 by way of a lease deed dated 01.12.2010 to carry on the hotel.

e. Tenant of Respondent no.1 is carrying on business of hotel over the said plot of land on the basis of an individual trade license and pays separate taxes independent from the holders of adjoining plots and even the accounts of plot no.5 are maintained separate from the adjoining plots. This fact is in itself sufficient to establish that not only the premises but also the business of the adjoining hotels is done and maintained independent of each other.

f. It is further pertinent to state that the entry to plot no. 5, Near Arya Samaj Mandir, Green Park, New Delhi- 110016 is separate and distinct from the adjoining plots. The buildings are separate from each other which is evident from the fact that not even a single floor of the building is connected to the floors of the adjoining buildings. Factum of independent floors without there being any connection between the



floors of the adjoining building further fortifies the factum of three distinct buildings.

g. It is further relevant to state that each building has its own lift for mobility from one floor to the other without in any manner connecting the floors to each other.

h. To provide electricity to the building, respondent no.1 has installed a generator set which only provides energy to the superstructure over plot no.5.

i. To run the business separate from the adjoining premises, respondent no.1 has obtained a fire NOC for her own hotel building. And as to the knowledge of the respondent, the adjoining buildings have a separate fire NOC with respect to the adjoining buildings.

j. It is further relevant to state that the status of the adjoining plots no. 4 & 6 is completely independent even in the records of MCD and DDA. Therefore, to contest that the plots no. 4, 5 & 6 are one and unified is completely misplaced and misconstrued.

k. It is also pertinent to note that in the present date, the hotel run in Plot no. 6 is not even run by the same name and style forget being a joined property. Vide Sale deed dated 08.04.2015 the said plot no. 6 was sold to Amaltas Hotels Pvt. Ltd. through its Managing Director Mr. Suresh Singh Bhadori. At present, the previous Hotel Stallion at plot no.6 is run by the name of 'Hotel Amaltas International'. Copy of the Sale Deed dated 08.04.2015 is hereby annexed and marked as ANNEXURE R-1.

l. It is pertinent to note here, that the Hotels run in the premises being plot no. 4 & 5 are in the name and style of "Hotel Potala" and the hotel run in the premises being plot no. 6 is in the name and style of "Hotel Amaltas International". Photographs of Hotels running in Plot no. 4,5 & 6 as different hotels is marked and annexed herewith as ANNEXURE R-2(Colly).

m. That for the purpose of other relevant documents, Annexure annexed with the counter affidavit may be referred to and the same are not annexed herewith for the sake of brevity."

9. In view of the aforesaid, and considering that separate electricity connections have already been granted and made operational, the issues raised by the petitioner in these petitions have become moot. As such, no



orders are required to be passed in the present writ petitions and the same are, accordingly, disposed of.

SACHIN DATTA, J

JANUARY 9, 2024/AT