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

+ **RSA 29/2022**

NAKUL GUPTA

.....Appellant

Through: Mr. Shiv Charan Garg, Mr. Imran Khan, Mr. Nalin Vinayak Gupta, Advs.

versus

TATA POWER DELHI DISTRIBUTION LTD REGISTERED OFFICE AT

.....Respondent

Through: Mr. Manish Srivastava, Mr. Moksh Arora, Mr. Yash Srivastava, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

18.03.2025

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1. Present regular second appeal filed under Section 100 CPC challenging the order/judgment and decree dated 07.03.2020 passed by Ld. ADJ (Central)-10, Tis Hazari Courts, Delhi in RCA No. 35/18 (New No. 202/18) titled *Tata Power Delhi Distribution Ltd. vs. Nakul Gupta* and restore the order and judgment dated 06.05.2017 passed in Civil Suit No. 597688/2016 titled *Nakul Gupta vs. Tata Power Delhi Distribution Ltd.* passed by Ld. Civil Judge, Central, Delhi.
2. Briefly stated the case is that the appellant herein had filed a suit for recovery as the respondent had failed to refund the security amount and the SLD charges. The Ld. Trial Court after trial, decreed the suit of the appellant/plaintiff. The respondent aggrieved of this filed the first appeal before the Court of Ld. District Judge. Ld. District Judge taking



into account the Regulation 27 (ii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007 set aside the finding of the Ld. Trial Court and dismissed the suit of the appellant/plaintiff.

3. Learned counsel for the appellant states that in fact the contentions which have been noted by the Ld. First Appellate Court on behalf of the respondent herein were not even taken before the Ld. Trial Court or were part of the pleadings. Learned counsel for the appellant submits that he would be satisfied if the matter is remanded back to the Ld. First Appellate Court for reconsideration of the matter on the basis of material available before the Ld. Trial Court.
4. Learned counsel for the respondent has vehemently opposed the same. Learned counsel submits that in the impugned order, Ld. First Appellate Court was within its rights to consider the legal position.
5. I have considered the submissions, the order of the Ld. First Appellate Court indicates that the grounds on which the matter and the order of the Ld. Trial Court was set aside was not part of the discussion before the Ld. Trial Court. The grievance of the appellant is also that the evidence as recorded before the Ld. Trial Court has not been taken into consideration. The judgment of Ld. Trial Court has been set aside on the grounds which seem to have not been taken before the Ld. Trial Court. Learned counsel for the appellant submits that he did not get an opportunity to present his case on such aspects.
6. Thus, without going into the merits of the case, the matter is remanded back to the Ld. First Appellate Court for fresh consideration, taking into account the material available on record. It is made clear that this court has not gone into the merits of the case and no expression made



herein shall tantamount to be an expression on the merits of the case.

7. Parties are directed to appear before Ld. Principal District and Sessions Judge, Central District, Tis Hazari Courts, Delhi and Ld. Principal District and Sessions Judge, Central District, Tis Hazari Courts, Delhi may assign the appeal to the Court of competent jurisdiction.
8. Copy of this order be sent to Ld. Principal District and Sessions Judge, Central District, Tis Hazari Courts, Delhi for necessary compliance.
9. In view of the above observations, the appeal along with pending application(s), if any, stands disposed of.

DINESH KUMAR SHARMA, J

MARCH 18, 2025/AR/KR..