

**IN THE COURT OF ANUJ AGRAWAL**  
**ADDITIONAL DISTRICT JUDGE-05 : SOUTH-WEST DISTRICT**  
**DWARKA : NEW DELHI**

**CS No. 569-19**

**CNR No. DLSW01-008206-2019**

**Sh. Sukhpal**

...Plaintiff

versus

**Sh. Vijay Pal & Anr.**

...Defendants

**ORDER**

1. Vide this order, I shall dispose of the application U/s 151 CPC moved on behalf of the defendants seeking restoration of the electricity connection in the suit premises i.e. RZ G-10, Gali no. 4, Vishwas Park, Uttam Nagar, New Delhi.

2. Brief facts may be taken note of : the present suit for possession has been filed by the plaintiff against the defendant no. 1, who is his brother and defendant no. 2, who is wife of defendant no. 1 with the averments that the suit property i.e. RZ G-10, Gali no. 4,

Vishwas Park, Uttam Nagar, New Delhi was in the name of mother of the plaintiff, who during her life time, transferred the same in favour of the plaintiff vide duly registered documents.

3. It is the case of the plaintiff that he gave the suit property to the defendants for residing in the same as a licensee and in the month of April, 2019 the plaintiff told the defendants to vacate the suit property but despite several requests and despite licence termination notice dated 06.06.2019, the defendants did not vacate the said property. On these averments, the plaintiff has filed the present suit seeking decree of possession of the suit property against the defendants.

4. Written statement on behalf of the defendant no. 1 and 2 was filed stating therein that the present suit is not maintainable as the plaintiff has not come to this Court with clean hands. It is stated that mother of the plaintiff had never resided with the plaintiff during her life time and also did not execute any GPA, will with regard to the suit property and the said documents are forged and fabricated.

5. The present application U/s 151 CPC has been filed by the defendants on the grounds that the defendants are residing in the property bearing no. RZ-G-10, Vishwas Park, Street no. 4, Uttam Nagar

since the year 1987 and the plaintiff filed the present suit with his malafide intentions to grab the share of the defendant no.1 in the suit property. As per the defendants, the electricity connection bearing CA no. 103344813 was installed in the suit property in the name of Ramko Devi and after that in the year July, 2019 plaintiff got transferred the electricity meter on his own name on the basis of false and forged documents.

6. It is further averred by the defendants that in the year 2020, BSES department has transferred the electricity dues of around Rs. 30,000/- of another electricity meter bearing CA no. 150348380 installed in another property bearing no. G-55, Uttam Nagar, New Delhi (claimed by plaintiff to be his property) to the electricity meter bearing CA no. 152841768 of G-10, Uttam Nagar, New Delhi and due to the said unjustifiable transfer of the dues of CA No. 150348380, electricity connection of the said premises has been dis-connected for non payment of dues.

7. It is averred by the defendants that as per letter dated 27.08.2021 issued from BSES, an amount of Rs. 30,325/- of CA no. 150348380 has been transferred in CA No. 152841768 i.e. electricity connection installed in the suit premises. It is submitted that the

defendants are ready to pay all the dues of electricity meter bearing CA no. 152841768 except the illegally transferred dues of CA no. 150348380 and therefore, prays that BSES may be directed to restore the electric connection.

8. It is submitted by Ld. Counsel for the defendants that the electricity is fundamental right as held time and again by superior courts and without electricity the life of defendants and their family members have become miserable. Ld. Counsel for the defendants has relied upon the following judgements : i) *Om Parkash Vs. Balkar Singh and Ors. CR -1153-2022 decided on 19.12.2022 by Hon'ble High Court of Punjab and Haryana at Chandigarh*, ii) *Dipali Dey (Baxi) Vs. Mira Das Civil Appeal no. 4335 of 2009 decided on 14.07.2009 by Hon'ble Supreme court of India* and iii) *Dilip (Dead) through LRs Vs. Satish and Ors. Crl. Appeal No. 810 of 2022 decided on 13.05.2022 by Hon'ble Supreme Court of India*.

9. Per contra, Ld. Counsel for the plaintiff submitted that the defendants have concealed the material facts and they have not paid the pending dues. It is further submitted that the defendants have indulged in rampant theft of electricity and BSES has already levied penalty against them for the said theft. It is further submitted that electricity

connection was disconnected by the department of BSES due to non payment of pending dues and the plaintiff has no role in the same. It is further submitted that he has no objection if the BSES resumes the electricity connection in the suit premises subject to clearance of all dues by the defendants.

10. It is submitted by Ld. Counsel for BSES that in case of pending dues are cleared, BSES has no objection to restore the electricity connection.

11. Heard. Record perused.

12. The present suit has been filed by plaintiff for possession of suit premises against the defendants wherein BSES is neither a necessary party nor a proper party. In my considered view that the dispute between the defendants and BSES regarding disconnection, non payment of dues, illegal transferred of dues of another CA no. 150348380 to CA no. 152841768 (ie electricity meter installed at suit premises) and resumption of the connection is a separate cause of action. Therefore, the relief as sought by the defendants in the instant application can not be entertained in the present suit, which is essentially a suit for possession. The defendants can bring a separate *lis* as per law against BSES for the

relief as sought in the instant application.

13. **With these observations, the present application stands dismissed. Dasti copies be given to all concerned.**

**Announced in the Open Court**

**On 09.06.2023**

**(Anuj Agrawal)**

**Addl. District Judge-05**

**South-West District, Dwarka, New Delhi.**