

IN THE COURT OF SH. GOPAL SINGH CHAUHAN
DISTRICT JUDGE-03: WEST DISTRICT TIS HAZARI
COURT: DELHI

Civ DJ No. 366/2024

In the matter of :-

1. Sh. Jaspal Singh
S/o Sh. Jarnail Singh
R/o 2nd floor, Plot No.23, 24 & 25,
Guru Nanak Vihar Extension,
Nilothi, New Delhi-110041
2. Sh. Mukesh Mittal
S/o Sh. Satnarayan
R/o 1st floor, Plot No.23, 24 & 25,
Guru Nanak Vihar Extension,
Nilothi, New Delhi-110041
3. Smt. Jaspal Kaur
W/o Sh. Bhupinder Singh
R/o Upper ground floor, Plot No.23, 24 & 25,
Guru Nanak Vihar Extension,
Nilothi, New Delhi-110041

.....Plaintiffs

V/s

BSES Rajdhani Power Ltd.
Corporate office: BSES Bhawan,
Nehru Place, New Delhi-110019

Also at:

BSES Sub-station, Building no.1,
Opp. Gurudwara, Guru Harikishan
Nagar, Paschim Vihar, New Delhi-110087

.....Defendant

-ORDER-

1. Vide this order I shall dispose off an interim application of plaintiffs u/o XXXIX Rule 1 & 2 CPC, arguments on which were already heard.
2. Facts of case of the plaintiffs, in brief (required to be discussed for decision of the present application), are as follows- P-1 Sh. Jaspal Singh, P-2 Sh. Mukesh Mittal and P-3 Smt. Jaspal Kaur are in possession/ occupation as owners of 2nd floor, 1st floor and upper ground floor, respectively, of property built upon plot bearing no.23, 24 & 25, Guru Nanak Vihar Extension, Nilothi, New Delhi-110041 (hereinafter referred to as 'subject property'). For their respective floors the plaintiffs had applied for new electricity connections in their names with defendant BSES Rajdhani Power Ltd. multiple time, however, their applications were rejected on the ground of 'Court dispute of title of the subject property'. After refusal of the defendant to provide electricity connections, the plaintiffs served two notices to Business Manager of the defendant vide office diary no.689 and 690, both dated 26.12.2023 and to Chief Engineer of the defendant vide speed post dated 06.01.2024, inter alia stating therein (i) the defendant's refusal to grant electricity connections to the plaintiffs was in breach of its statutory obligation and judicial pronouncements, and (ii) calling upon the defendant to inform as to under which provision of law electricity connection to an occupant was refused on the mere ground of pendency of title suit of the property, in absence of a specific restrain order from the court in that regard. In response to the aforesaid notices the defendant gave an evasive reply vide letter bearing No. DH(B) NGL/23-24/193, dated

30.01.2024 by simply reiterating its stale contention of the title dispute of the property and advised the plaintiffs to contact the office for further clarification relating to legal suits, etc. In reply to the defendant's said letter, the plaintiffs submitted a letter vide office diary no.878, dated 05.02.2024, inter-alia reiterating therein that contention of the defendant about the legal suit on the subject property has already been sufficiently and suitably replied/clarified vide aforesaid two notices. Also, on 07.02.2024 Sh. Jatinder Pal Singh, attorney of the plaintiffs, contacted Sh. Vikram Narula, Divisional Head (B) NGL of the defendant and requested him to seek desired clarification, however, he was told to file a written reply. Then additional reply was filed vide office diary no.888 dated 07.02.2024, reiterating the aforementioned facts. The defendant issued another letter bearing no. DH(B) NGL/23-24/197, dated 08.03.2024, stating *'since some legal suits are pending against the property, therefore, defendant would not be able to provide any new connection till any direction from the Court'*. Currently one temporary electricity meter is installed in the subject property with CA No.351042205 in the name of Sh. Khemchand Nogia, who was builder of the property, due to which extreme hardship is being caused to the plaintiffs. It is prayed that the defendant be directed to sanction and install electricity connections in name of the plaintiffs at their respective floors.

3. In written statement filed on behalf of the defendant mainly it is submitted and contended that there is no provision for initiating a civil proceeding u/s 43 of Electricity Act, 2003, that the present suit for injunction without seeking declaratory relief, is not maintainable, that the plaintiffs did not submit title documents as

per requirement of regulation 10 of DERC, that on inspection of the subject property by representative of the defendant it came to notice that some court notices were pasted outside the premises implying that some civil suits were pending with regard to the subject property and that in response to notice of the defendant requesting the plaintiffs to furnish clarification regarding the litigation, the plaintiffs have only disclosed that two cases were pending with regard to the subject property, however, they did not disclose as to whether or not they were party to the cases and any stay order has been granted by any court.

4. In support of his contentions Ld. counsel for the plaintiffs has relied upon several case laws including cases titled ‘Savita Yadav@ Savita Vs. BSES Rajdhani Power Ltd.’, W.P.(C) 12608/2021, DOD- 21.12.2021, ‘Ashok Panwar & Anr. Vs. BSES Rajdhani Power Ltd. & Anr.’, W.P.(C) 3819/2022, DOD- 07.03.2022 and ‘Sudharshan Kumar Sharma & Anr. Vs. State of NCT of Delhi & Ors.’, W.P.(C) 13217/2019, DOD- 14.11.2022, all decided by Hon’ble Delhi High Court.

5. In support of claim of the plaintiffs that they have title and possession over the subject property, copies of GPAs in their favour, have been filed along with the plaint. Later, by way of an application u/o VII Rule 14 CPC copies of certain additional documents containing sets of Agreement to sell (with full payment), receipt, possession letter, affidavit, etc., in respect of the subject property, have also been placed on record. Moreover, the fact that the plaintiffs are in occupation of the subject property, has not been disputed on behalf of the defendant. In the present context the following observation of the Hon’ble High Court in case of

Ashok Panwar & Anr. Vs. BSES Rajdhani Power Ltd. & Anr. (supra), is relevant to be considered, '7. *It is not in dispute that petitioners are in possession of the subject property. Mere pendency of the Civil Suit would not be a ground to disentitle the petitioners from obtaining an electricity connection in their name, particularly, in view of the fact that the petitioners are in possession of the subject property*'.

6. Copies of certain orders, purportedly pertaining to the subject property, are placed on record. From cursory look at the same it is appearing that the plaintiffs or any of them were not parties to the said litigation. As far as objection made on behalf of the defendant that the present suit for injunction is not maintainable without seeking declaratory relief, is concerned, in the present matter there is no requirement for the plaintiffs to seek declaratory relief as they are seeking relief regarding fresh electricity connections.

7. It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Strong prima-facie case is found in favour of the plaintiffs. Balance of convenience also lies in their favour and they are likely to suffer irreparable loss in case injunction is not granted in their favour.

8. Considering the submissions made by the parties, facts and circumstances of the case, without prejudice to the rights and contention of the parties, the present application u/o 39 rule 1 & 2 CPC is being disposed off with a direction to the defendant to install electricity connections at respective floors of the plaintiffs in the subject matter property, in the following terms-

1. Plaintiffs shall make applications for grant of fresh electricity connections in their own names.

2. Plaintiffs shall comply with all the codal and commercial requirements of the defendant.
 3. Plaintiffs shall pay consumption charges in accordance with the bills raised by the defendant from time to time.
 4. Defendant shall be entitled to disconnect the electricity supply in case the plaintiffs fail to pay the electricity charges.
 5. Applications of the plaintiffs shall be processed and electricity connections shall be installed within two weeks of their completing all the formalities.
9. It is hereby clarified that this order shall not be construed as recognizing any possessory rights of the plaintiffs over the subject property, that no special equities shall flow in favour of the plaintiffs because of this order and that the electricity connections in the subject property shall remain till disposal of the present suit or till further order directing otherwise and further continuity of the connections shall be dependent on final decision in the suit.

(GOPAL SINGH CHAUHAN)
DJ-03, WEST/DELHI
23.05.2025