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

+ C.R.P. 89/2022 & CM APPL.29673/2022 (stay)

BSES RAJDHANI POWER LIMITED Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Advocate
with Mr. Anupam Verma, Mr. Nikhil
Sharma and Ms. Manu Tiwari,
Advocates.

versus

JAI KISHAN CHIKKARA & ORS. Respondents

Through: Ms. Vaishali Gupta, Advocate for
respondent No.2.

+ C.R.P. 92/2022 & CM APPL.30596/2022 (stay), CM
APPL.30597/2022 (exemption)

BSES RAJDHANI POWER LTD Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Advocate
with Mr. Anupam Verma, Mr. Nikhil
Sharma and Ms. Manu Tiwari,
Advocates.

versus

FATIK CHANDRA GHOSH Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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27.07.2022

1. Present writ petitions have been filed challenging the impugned orders dated 22.03.2022 whereby the application of the petitioner under Order VII Rule 11 CPC has been dismissed.

2. The facts in brief are that the petitioner, who is in the business of



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electricity distribution, wants to install a transformer, to which the respondents are objecting to. Respondent aggrieved of this, filed a civil suit. In the civil suit, the petitioner took an objection that the suit is barred under Section 145 of the Electricity Act, 2003 and also Section 67 of the Electricity Act, 2003 read with Rule 3 of the Works of Licencees Rules, 2006. Learned Trial Court did not agree with the objections of the petitioner and after relying upon the judgment in *Gurnam Kaur vs. BSES Rajdhani Power Ltd.*: 2017 SCC Online Del 7505, dismissed the application under Order VII Rule 11 CPC.

3. Mr. Sudhir Nandrajog, learned senior counsel for the petitioner has placed on record a detailed project report submitted to the Delhi Electricity Regulatory Commission for approval. Learned senior counsel for the petitioner submits that necessary approval has been granted by the Delhi Electricity Regulatory Commission and the same has also been placed on record. Learned senior counsel for the petitioner submits that the Resident Welfare Association has also granted exemption.

4. Issue notice to the respondents through all permissible modes, returnable on 29th August, 2022.

5. In the meanwhile, Sh. Jaykant Prasad, Advocate, Mobile No.9868088968 is appointed as the Local Commissioner. The Local Commissioner shall inspect the site after giving notice to the petitioner and the respondents. The Local Commissioner shall make a report regarding the location of the proposed transformer in relation to the house of the respondents. The Local Commissioner shall make a short video clip on a



mobile and shall also place photographs on record. The Local Commissioner shall also verify as to whether the proposed transformer is in accordance with the site plan filed by the petitioner before the Delhi Electricity Regulatory Commission. The fee of the Local Commissioner is fixed at Rs.30,000/-. The fee and the travelling expenses shall be borne by the petitioner.

DINESH KUMAR SHARMA, J

JULY 27, 2022
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