

GAHC010019522023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

WP(C)/1358/2023

M/S H K SAGAR REALTORS LLP AND ANR.
A LIMITED LIABILITY PARTNERSHIP FIRM C/O SAGAR STEELS
CO HEMANT AGARWAL
AGED ABOUT 53 YEARS BLOCK B
PROTECH PRITAM
SATI JAYMATI ROAD
ATHGAON
GUWAHATI- 781001
REP. BY ITS PARTNER
SHRI RAVI PRAKASH AGARWAL

2: RAVI PRAKASH AGARWAL
C/O SAGAR STEELS
CO HEMANT AGARWAL
BLOCK B
PROTECH PRITAM
SATI JAYMATI ROAD
ATHGAON
GUWAHATI- 781001
VERSUS

M/S ASSAM POWER DISTRIBUTION COMPANY LTD. AND 4 ORS.
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001
REP. BY ITS MANAGING DIRECTOR

2: THE CHIEF GENERAL MANAGER (COM AND EE)
M/S ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001

3:THE AREA MANAGER
INDUSTRIAL REVENUE COLLECTION AREA-II M/S ASSAM POWER
DISTRIBUTION COMPANY LIMITED
JALUKBARI
GUWAHATI- 781012

4:THE SUB-DIVISIONAL ENGINEER
AMINGAON ELECTRICAL SUB-DIVISION
M/S ASSAM POWER DISTRIBUTION COMPANY LIMITED
AMINGAON
KAMRUP
PIN- 781031

5:THE ELECTRICAL OMBUDSMAN
UNDER THE ASSAM ELECTRICITY REGULATORY AUTHORITY AT SIXMILE
GUWAHATI- 781022

Advocate for : MR. K N CHOUDHURY

Advocate for : SC

APDCL appearing for M/S ASSAM POWER DISTRIBUTION COMPANY LTD.
AND 4 ORS.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

15.03.2023

Heard Shri KN Choudhury, learned Senior Counsel assisted by Shri D Goswami, learned counsel for the petitioners. Also heard Shri KP Pathak, learned Standing Counsel, Assam Power Distribution Company Ltd. (APDCL).

The case of the petitioners is that it had purchased a plot of land from the State Bank of India through a Private Treaty Auction and have started a Real Estate Commercial Project on the said plot of land. On 28.07.2021, the petitioners had submitted an application for grant of temporary electrical connection to their Project site when they were informed that there were outstanding dues of the erstwhile owners of the said plot of land. The petitioners were informed that a huge amount of dues was pending and accordingly, a dispute was raised before the Consumer Grievance Redressal Forum (CGRF), AERC which authority, vide judgment and order dated 22.12.2021 had negated the plea of the petitioners.

Being aggrieved, the petitioners had preferred an appeal, being appeal No. 1/2022 before the Electricity Ombudsman. The Ombudsman, vide an order dated 15.11.2022 has allowed the appeal by accepting the plea of the petitioners. The petitioners contend that in spite of such order, the temporary electricity connection has not been given to the petitioners. It also transpires that the aforesaid judgment and order dated 15.11.2022 is the subject matter of challenge in a writ petition filed by the APDCL which is WP(C)/749/2023 which is also listed together today.

Shri Choudhury, learned Senior Counsel submits that in view of the findings arrived at by the learned Ombudsman, the APDCL is duty bound to grant temporary electricity connection.

The aforesaid contention has, however been refuted by Shri Pathak, learned Standing Counsel by contending that when the judgment and order dated 15.11.2022 is itself, the subject matter of challenge in the connected writ petition, the same is not liable to be given effect to. The learned Standing Counsel further submits that the amount of due is a huge one which is about 7.5 crores. The said amount has, however been disputed by the learned Senior Counsel for the petitioner by submitting that the amount has been calculated by taking into consideration surcharge and other charge under various heads.

Issue Notice, returnable after 4 weeks.

Shri Pathak, learned Standing Counsel accepts notice on behalf of the respondents nos. 1, 2, 3 and 4 whereas the proforma respondent no. 5-Electricity Ombudsman is represented by Shri S Dey, learned counsel.

Let extra copies be served upon the learned counsel for the respondents within 3 days.

Shri Choudhury, learned Senior Counsel for the petitioner prays for an interim order to the effect that pending consideration of the dispute, temporary connection may be granted. It is also submitted that the petitioners are ready and willing to

deposit a reasonable amount to show their *bona fide*.

After hearing the parties and on balancing the equities, it is directed that pending disposal of the writ petition, let a temporary connection be granted to the petitioners on an application to be submitted stating its requirement. However, such re-connection is to be granted subject to deposit of an amount of Rs. 75 lakhs. This Court will consider requirement of further deposit on any subsequent date, if the need arises.

It is made clear that the condition of deposit is only with regard to the temporary connection and will have no connection with the adjudication of the dispute between the parties.

Let such an application be filed within a week from today which would be considered and finalized within a further period of 2 weeks thereafter.

List this case after 4 weeks.

JUDGE

Comparing Assistant