

GAHC010195592025



2026:GAU-AS:5510

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

Case No. : WP(C)/5134/2025

BENI MADHAB GHOSH @ BENI MADHOB GHOSH
S/O LATE BIJOY GHOSH, R/O DHEKIAJULI TOWN, WARD NO. 8, MOUZA-
BORSOLA, P.S.- DHEKIAJULI, DIST- SONITPUR, ASSAM

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 3 ORS.
A GOVERNMENT OF ASSAM UNDERTAKING DULY INCORPORATED
UNDER THE COMPANIES ACT, 1956 HAVING ITS OFFICE AT BIJULEE
BHAWAN, PALTAN BAZAR, GUWAHATI DULY REPRESENTED BY ITS
CHAIRMAN-CUM-MANAGING DIRECTOR, PALTANBAZAR, GUWAHATI-
781001

2:THE CHIEF EXECUTIVE OFFICER
TEZPUR ELECTRICAL CIRCLE
APDCL
CAR
TEZPUR
ASSAM
PIN-784001

3:SUB DIVISIONAL ENGINEER
DHEKIAJULI ELECTRICAL SUB-DIVISION
APDCL
CAR
DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN-784110

4:SMTI MALABIKA NATH ROY @ MALABIKA NATH
W/O LATE SURAJIT RAY

R/O WARD NO. 4
L.B. ROAD
MOINAJULI
P.O. AND P.S.- DHEKIAJULI
DIST- SONITPUR
ASSAM
PIN-78411

BEFORE

HON'BLE MR. JUSTICE DEVASHIS BARUAH

For the Petitioner(s) : Mr. A. Bhattacharyya, Advocate

For the Respondent(s) : Mr. K. P. Pathak, Standing Counsel
: Mr. G. Chamuah, Advocate

- Date on which Judgment was reserved : N/A
- Date of Pronouncement of Judgment : **22.04.2026**
- Whether the pronouncement is of the Operative Part of the Judgment : No
- Whether the full Judgment has been Pronounced : Yes

JUDGMENT AND ORDER (ORAL)

Heard Mr. A. Bhattacharyya, the learned counsel appearing on behalf of the Petitioner and Mr. K. P. Pathak, the learned counsel appearing on behalf of the Respondent Nos. 1, 2 and 3. I have also heard Mr. G. Chamuah, the learned counsel appearing on behalf of the Respondent No.4.

2. The Petitioner herein who admittedly is in possession of a RCC building pursuant to an Agreement dated 09.12.2014 is aggrieved

by the actions on the part of the Respondent Authorities in disconnecting the electricity power supply and as such, has approached this Court.

3. The APDCL Authorities have filed an affidavit-in-opposition stating inter alia that the electricity connection stands in the name of Shri Surajit Roy bearing Consumer No.100000003865 which was disconnected on 14.11.2023 due to non-payment of the outstanding dues of an amount of Rs.8,277/-.

4. It is also seen that in the meantime, certain disputes have arisen between the Petitioner and the Respondent No.4 whereby the Petitioner has sought for specific performance of the Agreement dated 09.12.2014 by filing a suit being Title Suit No.83/2025 which is presently pending before the Court of the learned Civil Judge, (Senior Division) Sonitpur at Tezpur. It is also seen that the Respondent No.4 along with her daughter who is a minor has joined together to file counter-claim in the said suit seeking termination of the agreement for sale dated 09.12.2014 and for recovery of possession.

5. From the disputes between the Petitioner as well as the Respondent No.4, it is apparently clear that the Petitioner is in

possession of the building in question which is the subject matter of the agreement dated 09.12.2014. It is a well settled principle of law that supply of electricity is an essential service as has been held by the Supreme Court in the case of ***Dilip (Dead) Through Lrs. Vs. Satish and Others*** reported in ***(2022) SCC OnLine SC 810*** and as such, if the Petitioner is in possession of the said building, the Respondent Authorities cannot deny the essential service subject to satisfaction of the terms and conditions of the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017.

6. This Court also cannot turn a blind eye to the fact that the electricity connection earlier was in the name of Surajit Roy (since deceased) who is the husband of the Respondent No.4. There cannot be a continuation of an electricity connection in the name of a deceased person and the Petitioner also would not be entitled to have a permanent connection sans a title over the said land and building which is the subject matter of the Agreement for Sale dated 09.12.2014.

7. Considering the above, this Court therefore disposes of the instant writ petition with the following observations and directions:

- (i) The Petitioner would be at liberty to apply for a temporary connection in respect to the building in his possession in terms with Clause 4.5.2 of the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017 and upon filing of such application, the APDCL Authorities shall consider the same and provide the electricity connection subject to satisfaction of the terms and conditions of the said Regulations.
- (ii) This Court further takes note of that as the Petitioner claims that he was in possession of the building at the time when the electricity connection was there, therefore the Petitioner is directed to deposit the amount of Rs.8,277/- at the time of submitting the application as mentioned in Clause (i) hereinabove. It is observed that deposit of the said amount shall not affect the *inter-se* rights of both the Petitioner as well as the Respondent No.4 in Title Suit No.83/2025.
- (iii) The APDCL Authorities on receipt of the said amount of Rs.8,277/- shall close the permanent connection in the name of Surajit Roy (since deceased).
- (iv) This Court further observes that the directions made in Clause

(i) hereinabove thereby permitting the Petitioner to apply for a temporary connection in terms with Clause 4.5.2 of the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017 shall not create any equity in favour of the Petitioner in Title Suit No.83/2025.

JUDGE

Comparing Assistant