

Gaurang Kanth vs.bses Rajdhani Power Limited

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Court : Delhi

Decided On : Dec-12-2017

Appellant : Gaurang Kanth

Respondent : Bses Rajdhani Power Limited

Judgement :

Date of Decision:

12. 12.2017 \$~ * IN THE HIGH COURT OF DELHI AT NEW DELHI + LPA3162017 & CM No.16147/2017 GAURANG KANTH Appellant Through: Mr. Kirti Uppal, Sr. Adv. with Ms. Biji Rajesh, Mr. Rajeev Kr. Yadav, Mr. Sidharth Chopra & Mr. Pranvir Sethi, Adv. versus BSES RAJDHANI POWER LIMITED Respondent Mr. Sunil Fernandes, Standing Through: Counsel for BSES RPL with Mr. Arnav Vidyarthi, Ms. Anju Thomas & Ms. Nupur Kumar, Adv. for R-1. Mr. S.S. Jauhar, Adv. for R-2. CORAM: HON'BLE MR. JUSTICE S. RAVINDRA BHAT HON'BLE MR. JUSTICE SANJEEV SACHDEVA S. RAVINDRA BHAT, J.(ORAL)

1. The appellant is aggrieved by the order of the Single Judge rejecting his petition remanding the disputes urged by him with respect to the order made by the Consumer Grievance Redressal Forum (hereafter referred to as CGRF) set up under Section 42(5) of the Electricity Act, 2003.

2. Briefly, the dispute relates to electricity connection provided by the BSES Rajdhani Power Limited (hereafter LPA No.316/2017 Page 1 BSES). The appellant urges that the CGRF does not possess the jurisdiction to issue the kind

of directions that it did, i.e. to disconnect the electricity supply given to him. It is contended that the CGRF was not apprised of the pending civil dispute between the parties initially instituted before this Court but later transferred to the Saket District Courts, in which the appellant/plaintiff had secured an ex parte interim order protecting the possession in respect of the property. It was urged that the suit seeks appropriate reliefs in respect of the title to the property.

3. The contesting respondent (hereafter referred to as the complainant) urged that the appellants title is suspect and that the Tribunal possessed parallel jurisdiction since the respondent falls within the description of a complainant and a consumer. The wrongful grant of electricity supply, it was urged, was therefore, well within the jurisdiction of the Tribunal which correctly exercised it. The appellants articulated grievance, it was urged, was with respect to denial of natural justice, which has been accorded by the impugned order.

4. This Court had during the pendency of these proceedings directed the inclusion of the pleadings of the suit in the appeal record. The electronic record of the suit was made part of the record in this appeal. A consideration of those would show that on 10.07.2015 an ex parte order was made securing the appellants possession and also protecting his right to ingress LPA No.316/2017 Page 2 and egress to the property. During the course of hearing, it became apparent that the complainants grievance is really with respect to the location of electricity feeder lines, which, it is contended, are over the undisputed portions of the property over which the complainant has exclusive right, title and interest.

5. In these circumstances, the Court is of the opinion that without entering into a discussion as to the maintainability of the complaint or feasibility to further proceedings before the CGRF, it would be appropriate to direct the BSES to take suitable steps to shift the electricity feeder lines to the alleged common passage which is the disputed portion and covered by the order of the Court dated 10.07.2015 in CS(OS) No.1947/2015 (subsequently re-numbered afresh before the Saket Court). The parties i.e. the appellant and the complainant/respondent are hereby directed to cooperate in this process with the Local Commissioner to be appointed by the Court for this purpose.

6. Ms. Sakshi Kotiyal, Advocate (Mobile No.9599110515) is hereby appointed as the Local Commissioner; she shall proceed to the property i.e. property bearing No.268, Naseem Bagh, TTI Road, Jamia Nagar, Okhla, New Delhi-110025. The Local Commissioners fee is fixed at `50,000/-. The Commissioner shall intimate to the parties the date and time when the inspection proceeding would be conducted for marking the area to facilitate the shifting of the cable lines by LPA No.316/2017 Page 3 the BSES to the alleged common passage (disputed portion covered by order dated 10.07.2015). The BSES shall either concurrently or within a week from the said date, shift the said electricity lines. The Commissioner shall file a report to the Court within two weeks. The Registry is directed to transmit a copy of the Local Commissioners report to the file of the re-numbered suit i.e. CS(OS) No.6195/2016 before the Saket District Court, ADJ-04 or the successor court. In case Local Commissioner identifies that the existing lines are partly or wholly on the disputed passage, then there is no question of shifting them. However, they would be shifted only to the extent necessary. In either event, the expenses for shifting and the fee of the Local Commissioner shall be borne by the appellant. The BSES shall also produce the appropriate files and the documents relating to the electricity supply to the suit property available with it. The appeal is disposed of in the above terms. Dasti under the signatures of the Court Master.

7. 8. DECEMBER12 2017 kks S. RAVINDRA BHAT, J SANJEEV SACHDEVA, J
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