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Court : Jharkhand

Decided On : Feb-15-2001

Reported in : 2001(49)BLJR1590

Judge : S.J. Mukhopadhyaya, J.

Acts : Electricity Laws

Appeal No. : CWJC No. 483 of 2001

Appellant : Tapeshwar Sahu

Respondent : B.S.E.B. and ors.

Disposition : Petition allowed

Judgement :

ORDER

S.J. Mukhopadhyaya, J.

1. This application relates to grant of electrical connection in the premises of petitioner appertaining to Holding No. 159/A, M.S. Plot Nos. 217, 218, 219 and 211 (Part) at Ratu Road, Opposite New Market, Ranchi.

2. The respondents by their letterdated 30.10.2000 directed the petitioner to deposit the dues of Rs. 39538.36 paiseas was outstanding against erstwhile occupant of the premises to get such electrical connection with further stipulation that his application, otherwise shall be cancelled.

3. In spite of time granted to the respondents, no counter-affidavit has been filed on behalf of B.S.E.B. Mr. Tapen Sen, counsel for the Board relied on Circular No. 235 dated 8.2.2000 in support of the stand taken in letter dated 30.10.2000. Relevant portion of the aforesaid circular dated 8,2.2000 reads as follows :--

'Instances have come to the notice of the Board where reconnection has been given to the premises disconnected earlier for non-payment of electricity dues, without realising the earlier dues, and in many cases the same consumer who has committed default to payment of the electricity dues has been found to have obtained connection in the name of some other relative or member of his family. By giving such connection, without realisation of arrear dues, the chances of recovery of dues against the concerned premises becomes remote, causing considerable loss of revenue to the Board. This has to be prevented at all costs.'

In view of the above and in order to resolve such cases, the following guidelines are being issued for guidance of all concerned in supersession of all previous orders on this issues :--

Reconnection of the disconnected premises should ordinarily be refused till outstanding dues against that connection is cleared in full.

However, there may be certain genuine cases, wherein the old consumer, who had committed default in payment of the dues, has left the premises for good and the concerned premises has come in legal possession of a new occupant, through transfer or purchase of the concerned property and where the new incumbent is not connected with the previous owner/occupant in any manner and applies for re-connection of the electrical line in the same disconnected premises. In such cases, the concerned A.E.E./E.E.E./S.E./G.M.-cum-C.E. should personally enquire into the matter and, after being satisfied regarding genuineness of the case may order reconnection, without realisation of the arrear dues of concerned premises from the new incumbent as per delegation of powers given below. The cases on which dues outstanding are over Rs. 50,000/- must reach the Board for decision; after proper recommendation of the Area Board General Manager-cum-Chief Engineer.....'

4. In the present case, specific plea taken by the petitioner that he was given possession of the premises in pursuance of the Judgment and decree dated 6.4.1990 passed in Partition Suit No. 27/1960-83. Actual possession was given by Nazir, Civil Court, Ranchi in January, 1999 as informed by his letter dated 17.1.1999.

5. Some what similar issue fell for consideration before the Supreme Court in Isha Marbles v. B.S.E.B., (1995) 2 SCC 648, wherein the Court held that the auction-purchaser of the premises would not be liable to meet the liability of the previous consumer in order to secure reconnection.

6. In the facts and circumstances, the petitioner having taken possession in pursuance of judgment and decree, the respondents cannot apply the circular dated 8.2.2000, nor can force the subsequent owner of the premises (the petitioner) to pay the dues of erstwhile owner for a new electrical connection. Such connection cannot be termed as a restoration of the original connection.

7. This apart, from the subject matter of letter dated 8.2.2000, it will be evident that the same relates to reconnection of supply to new tenant in the premises and is not applicable to a owner who obtained subsequent possession.

8. Accordingly, the letter dated 30-10.2000 is set aside and the respondents are directed to give fresh electrical connection in favour of petitioner on deposition of requisite amount or if the same has already been deposited and completion of other formalities within 48 hours from the date of receipt/production of a copy of this order or completion of formalities whichever is later.9. The writ petition is allowed, with the aforesaid observations/directions.

9. Petition allowed.

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