
(1984) 05 PAT CK 0017

In the Patna High Court

Case No : Civil Revision No. 1529 of 1983

Bihar State Electricity Board and Others

APPELLANT

Vs

Ramautar Chokhani and Others

RESPONDENT

Date of Decision : 23-05-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, 115
Electricity Act, 1910 — Section 24

Citation : AIR 1985 Patna 217

Hon'ble Judges : M.P. Varma, J

Bench : Single Bench

Advocate : Damodar Pd. Tiwary, for the Appellant; Chitranjan Sinha, for the Respondent

Final Decision : Dismissed

Judgement

M.P. Varma, J.—The only question raised in this revision is whether the lower Appellate Court has committed some error of jurisdiction in the grant of temporary injunction in a money claim.

2. I have perused the order. I find that on a reference to the pleadings of the parties, the Court below has held that there is a strong prima facie case made out by the plaintiff since on a mere reading of the plaint, amount claimed under the notices in question (the demand of arrears of electrical energy) are apparently barred by limitation, subject to what may ultimately turn out in the final determination of the suit itself. The grant of injunction sought is with regard to consequences of non-payment of the dues under those notices served u/s 24 of the Electricity Act, whereby disconnection has been threatened.

3. A very strong plea of limitation has been raised which is the real crux in the suit and as I have myself indicated that the claim under those notices being barred by limitation cannot be ruled out at this stage, and any view to the contrary can be taken only by the trial Court by reference to documentary evidence that might be adduced in this regard. The effect of endorsement on bills

mentioning words "Arrears prior to March, 80, not marked" shall itself be the moot question for determination by the trial Court and nothing definite can be found at this stage without supporting evidence.

4. I do not find any jurisdictional error in the order impugned, so as to persuade me to invoke my revisional powers under the Code of Civil Procedure, scope whereof has been very much curtailed by the last amendment of the Code.

5. In the result, the application fails and is dismissed.