
(2012) 02 GUJ CK 0124
In the Gujarat High Court

Case No : Letters Patent Appeal No. 2199 of 2010

Central Gujarat Electricity Co. Ltd.

APPELLANT

Vs

Patel Prakashbhai Bhagwandas

RESPONDENT

Date of Decision : 03-02-2012

Acts Referred:

Citation : AIR 2012 Guj 67

Hon'ble Judges : V.M. Sahai, J;A.J. Desai, J

Bench : Division Bench

Advocate : Lilu K. Bhaya, for the Appellant; Ramnandan Singh, for the Respondent

Final Decision : Allowed

Judgement

A.J. Desai, J.—Admit. Learned advocate Mr. Ramnandan Singh waives service of notice of admission on behalf of respondent. With the consent of parties, the matter has been taken up for final hearing. By way of present Appeal under Clause 15 of the Letters Patent, the original respondent - Central Gujarat Electricity Company Ltd.. has challenged the judgment dated 26.08.2008 passed in Special Civil Application No. 6107 of 2007 by which the learned single Judge has directed the Electricity Company to release second electric connection to the petitioner as and when his turn for such connection be comes due.

2. Heard learned advocate Ms. Lilu Bhaya for the appellant and learned advocate Mr. Ramnandan Singh for the respondent.

3. An application dated 01.06.2006 was submitted by the respondent consumer and requested the appellant company for extension of load from 20 HP to 40 HP by way of additional new connection at the same premises. Since the said application was rejected by the company but no order has been produced by the appellant, the original petitioner filed above-referred Special Civil Application. In the said petition it was prayed that the appellant company shall be directed to release additional 20 HP connection to the petitioner on the same premises. The

petition was accepted by the learned single Judge as stated hereinabove.

4. Learned advocate Ms. Bhaya for the appellant has submitted that, under clause 4.1.17 Electric Supply Code and Related Matters Regulations which has been issued Notification No. 11 of 2005 under the Electricity Act, 2003 by Gujarat Electricity Regulatory Commission (GERC), a licensee shall provide more than one electric connection/ meter for one premises. If a consumer asked for second connection/meter then the consumer shall have to produce legal entity and further documents which are mentioned therein.

5. On the other hand, learned advocate Mr. Ramnandan Singh for the respondent has submitted that he has paid the amount as per the demand of the electricity company and therefore he is entitled for another connection. He has supported the judgment passed by the learned single Judge, by which a new connection is directed to be given to the respondent consumer.

6. Heard learned advocates for the parties. Clause 4.1.17 reads as under:

The Distribution Licensee will not provide more than one connection/meter for one premises. The consumers opting for second meter will have to produce separate legal entity such as documents of separate Income Tax No. /Sales Tax No., ration card and rent or lease agreement.

It is clear from the aforesaid clause that the present appellant company is barred from providing more than one connection/meter for one premises. The word "premises" is defined under clause 2.1 of the said Regulation. As per the definition "premises" includes any land, building or structure. It is an admitted position that in the present case, on the disputed land the respondent is having already one connection, had requested for another connection with additional load of 20 HP. Thus, on the same land the appellant company cannot grant additional electric connection. However, if the consumer asked for additional HP, the appellant company can certainly consider the case of a consumer.

7. In our view, though the petitioner had dug another tube well on the same land, he is not entitled for another connection as directed by the learned single Judge.

8. Learned advocate Ms. Lilu Bhaya has fairly submitted that the application dated 1.6.2006 submitted by the respondent, can certainly be considered for additional load of 20 HP. Learned advocate Mr. Ramnandan Singh appearing for the respondent consumer has accepted the suggestion made by learned advocate appearing for the appellant company. However, he has requested the court to direct the appellant company to consider his application as early as possible.

9. In view of this factual and legal aspect of the matter, the order passed by the learned single Judge cannot be maintained. The observations made by the learned single Judge to the effect that a new connection can be released in the said premises is contrary to the Electricity Code and Regulation and, therefore,

the impugned order dated 26.08.2008 passed by the learned single Judge in Special Civil Application No. 6107 of 2007 is hereby set aside. The appellant company is directed to consider the application dated 1.6.2006 filed by the respondent consumer and the same shall be decided by the appellant company within a period of one month from the receipt of writ of this Court. The appeal is allowed to the aforesaid extent with no order as to costs.