
(2010) 01 AHC CK 0160

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 3323 of 2005

Dhrubo Jyoti Chatterjee

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-01-2010

Acts Referred:

Citation : (2010) 01 AHC CK 0160

Hon'ble Judges : Prakash Krishna, J and Yogesh Chandra Gupta, J

Final Decision : Allowed

Judgement

1. Raising a short dispute, present writ petition has been filed. The case of the petitioner is that Late K.M. Chatterji, grand father of the petitioner was residing as tenant in the house No. 48/50/51 Leader Road, Allahabad. He had taken electricity connection in the year 1940 A.D. He during his life time applied for permanent disconnection and deposited fee for permitting disconnection as is evident from Annexure 2 to the writ petition. Subsequently fee for permanent disconnection was deposited on 2751996. Some time thereafter his son Sri P.K. Chatterji (father of the petitioner) also died on 351999. The petitioner shifted (in a new house and is presently residing in house No. 4A/B, Vivek Nagar, Naini, Allahabad since 1996. The case of the petitioner is that he received bill for a slim of Rs. 34.306/ in respect of alleged consumption of electricity by his grand father. The recovery notice is dated 6112004. Challenging the said recovery notice, present writ petition has been filed.

2. Heard learned counsel for the petitioner, learned Standing Counsel on behalf of the respondent Nos. 1, 2 and 3. None is present on behalf of the respondent No. 4 and 5.

3. The petitioner has relied upon the case of Gopal Swarup Chaturvedi v. U.P. State Electricity Board, Lucknow and another, 1999(4) AWC 3349 wherein under similar circumstances notice was quashed by this Court. We have given careful consideration of the submissions made by the learned counsel for the petitioner. The fact as stated in the writ petition have not been disputed by filing a counter

affidavit on behalf of the respondent No. 4 or otherwise. Learned standing counsel submits that since the electricity department has been impleaded as respondent Nos. 4 and 5, it is for them to justify the action. No one is present on behalf of the respondent Nos. 4 and 5. Taking into consideration the facts and circumstances of the case, we find substance in the arguments advanced by the learned counsel for the petitioner, that after deposit of fee for permanent disconnection electricity dues cannot be realised by the department.. In the present case, original consumer has already died and his son has also died. The petitioner who happens to be the grand son is living in separate house.

4. The writ petition is therefore, allowed. Impugned recovery notice dated 1611 2007 Annexure No. 3 is hereby quashed. No order as to costs.