

(2021) 07 GAU CK 0127

In the Gauhati High Court

Case No : Writ Petition (Civil) No. 3282 Of 2021

Jyoti Das And Anr.

APPELLANT

Vs

Assam Power Distribution Company Ltd And 4 Ors

RESPONDENT

Date of Decision : 19-07-2021

Acts Referred:

Citation : (2021) 07 GAU CK 0127

Hon'ble Judges : Manish Choudhury, J

Bench : Single Bench

Advocate : M K Choudhury

Judgement

The Court proceedings have been conducted through online court proceeding services.

Heard Mr. M.K. Choudhury, learned Senior Counsel assisted by Mr. M. Sarma, learned counsel for the petitioners and Mr. H.K. Sharma, learned

Standing Counsel, Assam Power Distribution Company Limited (APDCL) for respondent nos. 1 and 2.

Issue notice, returnable on 12.08.2021.

As Mr. Sharma has accepted notice on behalf of respondent nos. 1 and 2, no formal notice need to be issued to the said respondents. The petitioner

shall, however, furnish extra copies of the writ petition to Mr. Sharma during the course of the day.

The petitioner shall take steps for service of notice on the respondent nos. 3, 4 and 5 by registered post with A/D within 3 (three) days. Additionally,

the petitioner may serve notice upon the respondent nos. 3, 4 and 5 by way of dasti which shall be routed through the office.

In the writ petition, it has been projected that one Bholanath Saikia was the

owner of a plot of land having a total area of 21600 Sq. ft i.e. 1 Bigha and 3 ½ Kathas, covered by Dag No. 556 (New) & Patta No. 160 (New), situated on Beltola-Basistha Road, Mouza " Beltola, Dispur Revenue Circle, District " Kamrup (M) (hereinafter referred to as the "subject-plot", for easy reference). Bholanath Saikia expired on 05.04.2007. The petitioner no. 1 is the daughter of Late Bholanath Saikia whereas the petitioner no. 2 is the widow of Sri Pranab Saikia, the younger son of Late Bholanath Saikia. The respondent no. 3 is the elder son of Late Bholanath Saikia and the respondent no. 5 is the wife of respondent no. 3. The respondent no. 4 is the private limited company in which the respondent no. 3 is the Managing Director.

Mr. Choudhury has submitted that after the death of Bholanath Saikia, the subject-plot has been mutated in the name of the petitioner no. 1, the respondent no. 3 and the three successors of Sri Pranab Saikia i.e. the petitioner no. 2 and their two sons. There exists a notarized deed of family settlement dated 01.06.2020 wherein the respective shares of the petitioners and the respondent no. 3 have been indicated. Though there is a proceeding going on in respect of a will surfaced in the year 2020, it is the deed of family settlement which, as on date, governs the relationship between the parties. As per the said deed of family settlement, the petitioner no. 1 is the owner and occupier of the 2nd floor and the petitioner no. 2 is the owner and occupier of the 3rd floor of a 4-storey building situated on the subject-plot. The respondent no. 3 and the respondent no. 4 are occupying the ground floor and the 1st floor of the building. During the lifetime of Late Bholanath Saikia, a transformer of 100 KVA had been installed for supply of electricity to the said building and the said transformer is in the name of respondent no. 4 company. The electricity supply to the 2nd floor and the 3 rd floor of the building are being provided from the said 100 KVA transformer installed in the name of respondent no. 4 through sub-meters and the petitioners have been paying the electricity bills to the respondent nos. 3 and 4 as per the bills raised by them. After it is learnt that there exists a will executed by Late Bholanath Saikia, some misunderstanding between the parties have surfaced and as a result, a notice dated 13.05.2021 (Annexure-4) has been served upon petitioners on behalf of the respondent no. 4 company and under the signature of the respondent no. 3. By the

said notice, they have been asked to obtain separate electricity connections to their portions of the building and have further been threatened about

disconnecting the electricity connections to their parts of the building on and from 31.07.2021. Mr. Choudhury has submitted that after receipt of the

notice dated 13.05.2021, the petitioner had approached the respondent APDCL in order to find out a solution and have also sought for separate

electricity connections to the 2nd floor and the 3rd floor of the building but they have been intimated to the effect that if any separate electricity

connections are to be provided to any part of the building the same have to be through the said transformer installed in the name of the respondent no.

4 only. Mr. Choudhury has submitted that the petitioners are surviving on the rentals from their institutional tenants occupying 2nd floor and 3rd floor

of the building and it is in such compelling situation, the petitioners have approached this Court by this writ petition seeking, inter-alia, a direction to

provide separate electricity connections to the 2nd floor and the 3rd floor to the building in question.

Mr. Sharma, learned Standing Counsel, APDCL has submitted that if a separate electricity connection is to be provided to a part of the building like

the one in question, ordinarily it has to be provided from the transformer installed in question. On a query by the Court, Mr. Sharma has referred to the

provisions in the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017, more particularly, Clause 3.10.2(c) thereof,

which states as under :

Connection with separate meters with separate point of supply Service or sub-service with separate meters may be provided as below: (c) In

the name of the occupier without a written undertaking from the owner on realization of additional load security over the above the normal

load security. The additional load security would be 3 (three) times normal load security.

In response, Mr. Choudhury has submitted that the petitioners are ready to file applications seeking separate connections in terms of the aforesaid

provision and they will do so within the shortest possible time. They are also ready to deposit the additional load security as required in terms of the

aforesaid provision.

In view of the undertaking made by Mr. Choudhury to file applications for

separate electricity connections to the 2nd floor and 3rd floor of the building, it is provided, in the interim, that the respondent APDCL on receipt of such applications shall provide the electricity connections to the parts of the building in respect of which the petitioners are found to be occupiers, subject to observance of the terms and the conditions of the Assam Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2017 with utmost expedition, preferably on or before 31.07.2021.

It is further provided that in the eventuality the respondent APDCL authorities have been prevented to provide such separate electricity connections for any technical reason on or before 31.07.2021, the parties shall maintain status quo as on date till the returnable date.

List the case again on 12.08.2021.