

(2010) 12 DEL CK 0375

In the Delhi High Court

Case No : L.P.A. 212 of 2010 and C.M. 5678 of 2010

Kishore Kumar Kaul

APPELLANT

Vs

BSES Rajdhani Power Ltd. and Others

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Electricity Rules, 1956 — Rule 63(2), 64(3)

Citation : (2010) 12 DEL CK 0375

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Jayanth Nath, B.C. Pandey and Amit Thakur, for the Appellant; J.S. Lamba and Rishabh Bhutani for R-1, Beenashaw Soni, for R-2 and Rajeshwar Dagar, for R-3, for the Respondent

Final Decision : Disposed Off

Judgement

Manmohan, J.—Present Letters Patent Appeal has been filed challenging the judgment and order dated 15February, 2010 passed by the learned Single Judge in W.P.(C) 11437/2009 wherein the Court refused to pass direction to shift the electric transformer installed outside the Petitioner Appellant's residence at Bhawani Kunj, behind D-II, Vasant Kunj, New Delhi - 110 070.

2. In fact, the learned Single Judge after taking note of the Indian Electricity Rules, 1956 (for short "Rules, 1956"), the fact that the transformer in question had been installed in 2001 and the Petitioner-Appellant's house was situated in an unauthorised colony, only directed the Respondent No. 1-BSES Rajdhani Power Ltd. to ensure that the transformer did not pose any safety risk or danger to the property of the Petitioner-Appellant and further that the Petitioner-Appellant did not suffer because of loose/open/cut cables in the transformer.

3. Mr. Jayanth Nath, learned senior counsel appearing for Appellant submitted that the transformer had been installed in violation of Rules 63(3) and 64(2) of the Rules, 1956. He further contended that the transformer posed a grave

danger to the Appellant as well as to his property.

4. However, after hearing the learned Counsel for the Respondents we are of the view that no mandatory direction can be passed for shifting of the transformer as requisite statutory permission under Rule 63(3) of the Rules, 1956 has been obtained by the Respondent No. 1-BSES from an electrical inspector.

5. We are also of the view that the learned Single Judge's directions in paragraphs 14 and 15 of the impugned order sufficiently protect and safeguard the interest of the Appellant.

6. However, as the Resident Welfare Association, Respondent No. 3 has suggested an alternative location for installation of the electric transformer, we are of the opinion that the said suggestion should be furnished to the Respondent No. 1-BSES who would consider the said suggestion from all spectrums including whether the alternative location is technically, economically and practically feasible. We may clarify that we have neither directed shifting of electronic transformer nor expressed any opinion on the suggestion of Resident Welfare Association as the Appellant's house is situated in an unauthorised colony and we are not clear as to the title of the land which is being suggested as an alternative location for shifting of the electric transformer.

7. With the aforesaid observation, the present appeal and application are disposed of.