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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 14.01.2022

+ **W.P.(C) 890/2022**

ASHISH GUPTA

..... Petitioner

versus

TATA POWER DELHI DISTRIBUTION LIMITEDRespondent

Advocates who appeared in this case:

For the Petitioner: Mr. Pankaj Kumar, Advocate.

For the Respondent: Mr. Manish Srivastava, Mr. Akhil Hasija and
Mr. Mayank Garg, Advocates

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner seeks a direction to respondent/Tata Power Delhi Distribution Limited (TPDDL) to either restore the electricity supply to CA No.60019111651 or install a fresh connection in the third floor of property number 83, Tagore Park, New Delhi-110009.
3. Learned counsel for the petitioner submits that the petitioner is a tenant in the subject property, though there are certain disputes

between the petitioner and landlord.

4. Learned counsel submits that the petitioner had filed a suit for mandatory injunction seeking restoration of electricity connection. However, the said suit was rejected on the ground that there is a suit for possession filed by the landlord against the property and the relief of restoration of electricity could be agitated in the said proceedings.

5. Issue notice. Notice is accepted by learned counsel for respondent.

6. Learned counsel appearing for the respondent/TPDDL submits that respondents have no objection in granting electricity connection in the name of the petitioner, provided the petitioner clears the pending electricity dues, if any, in respect of the above connection and further makes a fresh application for grant of a connection in his name and further subject to payment of additional security deposit over and above the regular security deposit.

7. The civil suit filed by the petitioner seeking mandatory injunction for restoration of electricity having been dismissed on the ground of an alternative remedy will not debar him from filing a petition under Article 226 of the Constitution of India as it is a settled proposition of law that electricity is one the Fundamental Rights for existence and protected under Article 21 of the Constitution of India, subject to the petitioner complying with other requirements.

8. In view of the above, this petition is disposed of in the following terms:

(i) Petitioner shall make an application for grant of a fresh electricity connection in his own name.

(ii) Respondent shall process petitioner's application for installation of a fresh electricity connection without insisting on a NOC from the owner.

(iii) Petitioner, shall comply with all the codal and commercial requirements of respondent TPDDL.

(iv) Petitioner shall also deposit a sum of Rs. 10,000/- with the respondent TPDDL in addition to the regular security deposit that the petitioner is required to make under the rules or regulations.

(v) Petitioner shall pay the consumption charges in accordance with the bills raised by respondent TPDDL from time to time.

(vi) Petitioner shall not seek adjustment of the security deposit. However, on the petitioner vacating the premises or being evicted and surrender of the electricity meter, petitioner shall be entitled to refund of the security deposit subject to adjustment of any dues of the respondent.

(vii) Respondent shall be entitled to disconnect the electricity supply in case petitioner fails to pay the electricity charges.

(viii) Application of the petitioner shall be processed and electricity connection shall be installed within two working days of the petitioner completing all the formalities.

9. It is clarified that this order is without prejudice to the rights and contentions of the parties and shall not be construed as recognising any tenancy or possessory rights of the petitioner with regard to the subject property and would be without prejudice to the pending dispute with the landlord. No special equities shall flow in favour of the Petitioner because of this order.

10. The writ petition is disposed of in the above terms.

11. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

JANUARY 14, 2022

NA