

GAHC010047622024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/94/2024

ABDUL SUKKUR CHOUDHURY
S/O- LATE ABDUR ROHIM CHOUDHURY, VILL.- BOTORASHI, P.O.
TILLABAZAR, P.S. AND DIST. KARIMGANJ, ASSAM, PIN- 788709.

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LTD. AND 3 ORS
REPRESENTED BY ITS CHAIRMAN, APDCL., BIJULI BHAWAN,
PALTANBAZAR, GHY-781008.

2:THE CHIEF EXECUTIVE OFFICER

BADARPUR ELECTRICAL CIRCLE
APDCL CAR BADARPUR
DIST. KARIMGANJ
ASSAM
PIN- 788710.

3:THE ASSISTANT GENERAL MANAGER

KARIMGANJ ELECTRICAL DIVISION
APDCL
CAR
KARIMGANJ
P.S. AND DIST. KARIMGANJ
ASSAM
PIN- 788710.

4:THE SUB-DIVISIONAL ENGINEER

KARIMGANJ ELECTRICAL SUB- DIVISION
APDCL

CAR
KARIMGANJ
P.S. AND DIST. KARIMGANJ
ASSAM
PIN- 788710

Advocate for the Petitioner : MS. R CHOUDHURY

Advocate for the Respondent : SC, APDCL

Linked Case : CRP(IO)/95/2024

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Advocate for : MS. R CHOUDHURY

Advocate for : SC

APDCL appearing for ASSAM POWER DISTRIBUTION AND 3 ORS

**BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

ORDER

06.03.2024

Heard Ms. R Choudhury, the learned counsel appearing on behalf of the petitioner and Mr. R Bora, the learned standing counsel for the APDCL.

2. Both the revision petitions are taken up together for disposal by this common order.

3. The instant petitions under Article 227 of the Constitution have been filed challenging the orders dated 23.02.2024 passed in Misc. Appeal No.21/2022 and Misc. Appeal No.25/2022. From a perusal of the impugned orders, it reveals that though in the suit, the dispute arose in respect of an amount of Rs.94,708/-

pertaining to the bill dated 04.08.2021 for the period from 02.02.2010 to 01.08.2021, but the learned 1st appellate court while adjudicating the said appeal had directed the APDCL authorities to submit the electricity bill from June 2018 to the present date and it was found that the petitioner herein, who was the appellant in Misc. Appeal No.21/2022 was liable to pay an amount of Rs.1,82,140/- which includes the bills of the disputed period as well as prior to June 2018. Under such circumstances, the learned appellate court taking into account that there was no dispute of an amount of Rs.1,44,520/- directed the petitioner who was the appellant therein to pay the said amount in installment per month at Rs.15000/- along with the current demand of the bill. Further to that, at the request of the petitioner/appellant for replacing the electric meter, the respondent APDCL was directed to take necessary steps for replacing the electric meter of the appellant. This Court upon perusal of the impugned order is of the opinion that there appears to be no infirmity in the impugned orders for which the same do not require any interference from this Court under Article 227 of the Constitution.

4. In addition to the above, this Court finds it relevant to note the provisions of Section 41(h) of the Specific Relief Act, 1963 which categorically mandates that where equally efficacious relief can certainly be obtained by any other usual mode of proceedings except in case of breach of trust, no injunction should be granted. This Court has duly taken note of the submission of Mr. R Bora, learned counsel appearing on behalf of the APDCL who submits that there is a Consumer Grievance Redressal Forum, wherein the petitioner ought to have agitated instead of filing the suit which gives an equally efficacious remedy. Taking into account the above, this Court further is not inclined to interfere with

the orders dated 23.02.2024.

5. Taking into account the above, this Court directs that for a period of 30 days from today, the APDCL shall not disconnect the electricity connection of the petitioner. The petitioner is given the liberty to withdraw the entire suit proceedings in the meantime and approach the said forum, if so aggrieved with the amount. It is further observed that if the petitioner approaches the said Consumer Grievance Redressal Forum of the APDCL, the rights and liabilities of the petitioner would be subject to such orders as may be passed by the said Forum and not the orders which have been impugned in the instant proceedings or the suit proceedings. For the sake of clarity, it is observed that the liberty to approach the said Forum is only given subject to withdrawal of the suit proceedings.

6. With the above, both the revision petitions stand disposed.

JUDGE

Comparing Assistant