

person is available at there. It was earlier submitted that only to create nuisance, the objection was filed by respondent no 3 due to his electric line was disconnected since 9.3.17, consequently appellant is suffering of no fault of his own.

The learned counsel for the appellant has placed reliance upon a case law Amarender singh vrs. Calcutta electric supply, reported in AIR 2008, Cal page 66, in support of his submission, wherein, Hon'ble High Court has clearly observed that right to shelter includes electricity & essential service & can not prevent occupier from enjoying benefit. The Learned counsel further placed reliance upon case law Molay Kumar Acharya vrs. Chairman-cum –Managing Director reported in AIR 2008, Calcutta 47, in which, a clear cut principle of law laid down that pendency of litigation between the parties cannot be equated as trespasser. As matter of fact, the appellant of this case is facing serious hardship & is on the verge of closure of his small shop & prays for grant of electrical connection with immediate effect to avoid irreparable loss & injury. Lastly it is submitted that after proper service of notice issued by this forum & also due to return of the same none appeared on behalf of Respondent no. 3. Therefore the electric supply of the appellant be restored at the earliest

The Ld counsel appearing for Res 1 &2 has clearly admitted the principle of law laid down by Hon'ble High of Calcutta & fairly admitted that the appellant is a tenant in the shop in question ,therefore, appellant comes within the meaning of “occupier” under section 43 of electricity Act 2003. As per settled principle of law as submitted above, the appellant is entitled to get electric connection in his shop in question. It has further been submitted that Ld. VUSNF, Hazaribag, after considering the necessity & urgency of

electric connection of the appellant, issued interim order on 11.01.16 for releasing electric connection & accordingly the said order was complied on 25.01.16 but at the time of passing impugned judgement and order, the Ld forum has withdrawn the aforesaid interim order dated 11.01.16, with direction that electric connection may be released in the shop built upon the land purchased by Sri. Ashok Kumar kedia, after the decision in title suit no. 139/2014, in the court of civil judge (junior division) No 2, Dhanbad. The Ld counsel further submitted that after passing impugned order & in compliance thereof, the electric connection of the appellant has been disconnected, so there is no fault on part of Respondent no. 1 & 2.

Having considered the entire fact & circumstances of this case, as discussed in aforesaid paragraph, I do find that appellant is a tenant in shop in question as per agreement. Whether that agreement is legal or void, this forum has got no jurisdiction to decide the same. It is admitted fact that Respondent no. 3 has objection from very abinitio with regard to electric connection in shop in question, in favour of the appellant. It is admitted fact that one title suit is pending in the competent civil court of Dhanbad for declaration of right title & interest of Respondent No. 3 over shop in question.

Admittedly, the legality and /or validity of the occupation of the shop in question by the appellant can be decided in the competent civil court, having got jurisdiction, but that will not prevent the said appellant from enjoying the benefit of electric connection. Undoubtedly, the appellant is only occupier as tenant either legal or trespasser. Therefore under the said circumstances, supply of electricity in the shop in question, occupied by the appellant should not be refused. Since appellant is running a shop so there is essential requirement of electricity in his shop. It is admission of the appellant that his

tenancy is going to be terminated in the month of July, 2017. Therefore, unless further agreement of tenancy is not executed, he would have no concern with shop in question.

Thus, taking into the consideration of aforesaid facts, the Respondent no 1 & 2 is hereby directed, by this interim order, to restore the electric connection to the appellant, in shop in question, till 31st, July 2017.

Let a copy of this interim order be given to both parties.

Put up on 26.04.17 for final hearing.

Sd/-
Electricity Ombudsman