

(2014) 06 JH CK 0011

Jharkhand High Court

Case No: Writ Petition (Civil) No. 2505 of 2014

Sanjeev Trading
Company

APPELLANT

Vs

The State of
Jharkhand

RESPONDENT

Date of Decision: June 27, 2014

Citation: (2014) 3 AJR 634

Hon'ble Judges: Prashant Kumar, J

Bench: Single Bench

Advocate: Rajeev Ranjan Tiwary, Advocate for the Appellant; Ajit Kumar and Prabhat Singh, Advocate for the Respondent

Judgement

Prashant Kumar, J.

This application has been filed for quashing of Letter No. 1563/E.S.E./Ranchi dated 25.04.2014 (Annexure-3) issued by Electrical Superintending Engineer, Electricity Supply Circle, Ranchi, whereby he has refused to give fresh electricity connection to the petitioner, as dues of electricity charges exists on the same premises.

2. It is submitted by Sri Rajeev Ranjan Tiwary, learned counsel for the petitioner that petitioner had taken a Cold Storage on lease from Bihar State Cooperative Marketing Union Limited. After taking the said Cold Storage on lease, petitioner applied for electricity connection, which was refused by Annexure-3 on the ground that erstwhile lessee namely C.P. Singh has not paid electricity dues to the tune of Rs. 43,394/- to the Board. It is submitted that since petitioner is new lessee of the Cold Storage, therefore, he is not liable to pay outstanding dues of earlier lessee and the Board cannot refuse electricity connection to the petitioner, on the ground of aforesaid dues of earlier lessee. In this connection, learned counsel for the petitioner relied upon the judgment of this Hon'ble Court Annexure-4, as well as another judgment reported in 2001 (1) Jhr. CR 284 (Jhr.).

3. On the other hand, Sri Ajit Kumar, learned counsel appearing for the respondent has submitted that in fact the petitioner is not a lessee, rather he has been appointed by the Bihar State Cooperative Marketing Union Limited for running and managing its Cold Storage. He referred to certain paragraphs of the deed of lease (Annexure-C) annexed with the counter affidavit, to show that the Cold Storage is owned by Bihar State Cooperative Marketing Union Limited and it authorized petitioner to run and manage the said Cold Storage. Thus, from perusal of the terms and condition of the alleged lease deed, it is clear that the petitioner is not lessee, rather he is an agent of the Bihar State Marketing Union Limited. Sri Kumar further submits that earlier lessee Sri C.P. Singh was also inducted as agent for running this cold storage. Accordingly, Sri Ajit Kumar submits that the said judgment cited by learned counsel for the petitioner will not be applicable in the facts of this case. He submits that in the instant case the judgment delivered by Hon'ble Supreme Court in [Amit Products \(India\) Ltd. Vs. Chief Engineer \(O and M\) Circle and Another](#), will apply where the Hon'ble Supreme Court has laid down that if any Company changes its Director and/or Management then it cannot be treated that the ownership of the Company has changed. It is submitted that in that case Supreme Court has held that the Electric Company has rightly denied to give connection to the concerned Company.

4. Having heard the submissions, I have gone through the record of the case. Admittedly, the petitioner took the Cold Storage from the Bihar State Cooperative Marketing Union Limited by Annexure-C. From perusal of Annexure-C, it is clear that still the Bihar State Cooperative Marketing Union Limited owned the cold storage. It further appears" from the terms and condition of the said deed that petitioner, who is said to be lessee, has been only authorized to efficiently run and manage the said Cold Storage. Thus, from the terms and condition of the lease, it is clear that the petitioner was appointed by the Bihar State Cooperative Marketing Union Limited as an agent to run and manage the Cold Storage. In view of the aforesaid terms and condition, I find that though in the said deed petitioner was shown as a lessee, but in true sense he is not a lessee rather he is an agent of the Bihar State Cooperative Marketing Union Limited. Under the said circumstance, petitioner cannot be treated as tenant/lessee of the said Cold Storage. Thus, the judgment relied by him at Annexure-4 and 2001 (1) Jhr. CR 284 (Jhr.) will not apply in the facts and circumstances of this case, because in those cases the lessee or subsequent tenant had applied for electricity connection. So far this case is concerned, only agency has changed and petitioner by Annexure-C has been appointed as an agent to run and manage Cold Storage.

5. The Supreme Court in Amit Products (India) Ltd. (Supra) has held that only by changing the members of the Board of Directors of the Company or by changing the shareholding pattern, the appellant Company had not undergone any change, therefore, the Company cannot get new electricity connection without making any payment towards the electricity charges payable by the previous consumer. In the

instant case, as noticed above, Bihar State Cooperative Marketing Union Limited is and was the owner of the Cold Storage. Earlier, it had given the cold storage to some other persons for running and managing the same under an agreement, now it gave the cold storage to the petitioner for the same purpose. Thus, in my view, ownership of the Cold Storage will not change only by changing the agent for running and managing the affairs of the Cold Storage.

6. In that view of the matter, I find no illegality in the impugned order (Annexure-3), thus, the same does not require any interference by this Court. Accordingly, this writ application dismissed.