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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 14th July, 2025

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RFA 552/2025

NIRMAL KUMAR JAIN

.....Appellant

Through: Mr. Karan Luthra with Mr. Yogesh Malik, Advocates and appellant in-person.

versus

BSES RAJDHANI POWER LTD

.....Respondent

Through: Mr. Sharique Hussain with Ms. Kirti Garg, Advocates.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

CMI No. 5/2024, whereby the appellant had sought permission to file the appeal as an indigent person, stands allowed *vide* order dated 29.05.2025 and the present matter is listed as a regular first appeal.

2. By way of the present appeal filed under section 96 read with Order XLI Rule 1 of the Code of Civil Procedure 1908 ('CPC'), the appellant impugns order dated 21.09.2023, whereby the learned trial court has rejected the plaint filed by the appellant on an application under Order VII Rule 11(d) CPC as being time-barred.
3. Mr. Karan Luthra, learned counsel appearing for the appellant has argued that by way of the plaint, the appellant had claimed relief against what was a continuing tort; and accordingly, the learned trial



court has erred in holding, without trial, that the claim in the suit was time-barred.

4. In this behalf, Mr. Luthra argues that the grievance of the appellant arose when the respondent issued to the appellant an inflated electricity bill dated 23.07.2014, which led to the disconnection of the appellant's electricity connection on 10.03.2016, followed by another electricity bill dated 24.08.2016.
5. Mr. Luthra contends that thereafter, since the respondent did not reconnect the electricity connection, the appellant continued to sustain losses, which compelled him to file the suit claiming the following relief :

“a. Pass a decree for compensation/damages of Rs. 10,92,800/-(ten lakhs ninty two thousand and eight hundred only) in favour of the plaintiff and against the defendant.

b. Pass a decree for payment of pendelite and future interest at the rate of 12% per annum, from the date of filling of the suit till its realization.”

6. Upon being queried, counsel points-out that, as has been narrated in para 12 of the plaint, the cause of action in relation to the suit arose in the following chronology :

“12. That the cause of action to file present suit arose on 24/9/2008 when applied for new electricity connection and again on 30/8/2008 when the electricity connection was given and again on 23/7/2014 when the sanction load was increased illegally and again on 10/3/2016 when the electricity connection was disconnected and again on 24/8/2016 which the hefty bill was given and again on 21/8/2015 when his wife was dead and again on 26/4/2015 when the defendant stated that as per your MDI your sanction load should be 1 only. The cause of action is still continuing.”



7. In this backdrop, Mr. Luthra argues, that the relief claimed in the suit would be covered by Article 72 of the Schedule to the Limitation Act 1963 ('Limitation Act'), which reads as under :

Part VII- Suits Relating to Torts

<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
<i>72. For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the territories to which this Act extends.</i>	<i>One year</i>	<i>When the act or omission takes place.</i>

8. Counsel further argues that the limitation would continue to run so long as the respondent does not recall and cancel the electricity bill issued to the appellant and restores his electricity connection. In this behalf, attention is drawn to section 22 of the Limitation Act, which reads as under :

22. Continuing breaches and torts.—*In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation begins to run at every moment of the time during which the breach or tort, as the case may be, continues.*

9. Counsel has also drawn attention to verdict of the Supreme Court in ***Samruddhi Co-operative Housing Society Ltd. vs. Mumbai***



Mahalaxmi Construction Pvt. Ltd.,¹ inter-alia to para 13 and 14 of the judgment, which read as follows :

“13. Section 22 of the Limitation Act, 1963 provides for the computation of limitation in the case of a continuing breach of contract or tort. It provides that in case of a continuing breach of contract, a fresh period of limitation begins to run at every moment of time during which the breach continues. This Court in Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneswar Maharaj Sansthan [Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneswar Maharaj Sansthan, 1959 Supp (2) SCR 476 : AIR 1959 SC 798] elaborated on when a continuous cause of action arises

“14. Speaking for the three-Judge Bench, P.B. Gajendragadkar, J. (as the learned Chief Justice then was) observed that : (Balakrishna case [Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneswar Maharaj Sansthan, 1959 Supp (2) SCR 476 : AIR 1959 SC 798] , AIR p. 807, para 31)

*“31. ... Does the conduct of the trustees amount to a continuing wrong under Section 23? That is the question which this contention raises for our decision. In other words, did the cause of action arise de die in diem as claimed by the appellants? In dealing with this argument it is necessary to bear in mind that Section 23 refers not to a continuing right but to a continuing wrong. **It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this***

¹ 2022 SCC OnLine SC 35



connection it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury. It is only in regard to acts which can be properly characterised as continuing wrongs that Section 23 can be invoked.”

(emphasis supplied)

The Court held that the act of the trustees to deny the rights of Guravs as hereditary worshippers and dispossessing them through a decree of the court was not a continuing wrong. Although the continued dispossession caused damage to the appellants, the injury to their rights was complete when they were evicted.”

(bold in original)

10. On the other hand, Mr. Sharique Hussain, learned counsel appearing on behalf of the respondent submits, that there is no error in the impugned order, since on a bare perusal of the plaint the following is evident :
 - 10.1. That the claim in suit was *not* for quashing or cancellation of the impugned electricity bills dated 23.07.2014 and 24.08.2016 *nor* had the appellant claimed restoration of his electricity connection.
 - 10.2. That the only claim in the suit was for a decree of damages towards compensation *arising from* the disconnection of the appellant’s electricity connection, which had been the result of non-payment of the electricity bills raised upon the appellant.
 - 10.3. That in para 12 of the plaint, the appellant himself set-out the dates on which, on the appellant’s own reckoning, the cause of action had arisen for filing of the suit; and the last such date is cited as 24.08.2016, *viz.* the date of the last electricity bill by which the demand was raised on the appellant.



- 10.4. That the claim for damages laid before the learned trial court *arose from the disconnection* of the appellant's electricity, which was a result of the appellant having failed to pay the electricity bills. The electricity bill had not been challenged nor had the disconnection of electricity been impugned.
11. In the circumstances, it is submitted that the cause of action for the suit clearly relates back to the disconnection of the appellant's electricity connection *on 10.03.2016*. It is therefore submitted that the suit filed on *16.09.2021*, *i.e.* beyond 01 year from the date on which the alleged act or omission took place, was clearly time-barred; and the learned trial court was accordingly right in rejecting the plaint under Order VII Rule 11(d) CPC.
12. Upon a conspectus of the record as available before this court, and based on the submissions made, this court is unable to discern anything remiss in impugned order dated 21.09.2023 passed by the learned trial court, rejecting the appellant's plaint on the ground that the relief claimed thereby was time-barred.
13. Clearly, the cause of action based on which the appellant had sought damages, is the disconnection of his electricity by the respondent, which happened on 10.03.2016. The suit was however filed on 16.09.2021.
14. It is the appellant's own case that since the disconnection of his electricity by the respondent was illegal, the respondent had committed a wrongful act against the appellant, which was the basis of his claim for damages in tort. Such a claim squarely falls within the



ambit of Article 72 of the Limitation Act, since it is a claim for compensation for the defendant having done or having omitted to do an act (*viz.* of having disconnected the electricity and having omitted to reconnect it) in pursuance of the respondent's obligations under the Electricity Act 2003, for which the limitation provided is one year from the day "*When the act or omission takes-place*", that is 10.03.2016, when the electricity was disconnected.

15. As very clearly articulated by the Supreme Court in ***Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneswar Maharaj Sansthan***,² cited above : *a continuing wrong is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. There is a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury.* In the present case clearly, the alleged wrongful act was the disconnection of electricity, which was complete on 10.03.2016; even though the injury caused by that alleged wrongful act, and the effect of that injury continued thereafter.
16. Since the appellant has not sought the relief of cancellation of the demand comprised in electricity bills dated 23.07.2014 and

² AIR 1959 SC 798



24.08.2016, it was not even necessary for the learned trial court to have gone beyond the allegation that the disconnection of electricity was a wrongful act, since no claim in that behalf had been placed before the learned trial court. This is evident from a perusal of the claims made in the suit, viz. the prayers in the plaint. Surely, the disconnection of the appellant's electricity on 10.03.2016 was an act which was performed and completed on that date; and it is nobody's case that the respondent *repeatedly* disconnected the appellant's electricity.

17. In the circumstances, there was no continuing tort in the present case, as contemplated in section 22 of the Limitation Act, which provisions therefore has no application to the appellant's case.
18. As a sequitur of the above, this court is of the view that the learned trial court was correct in its understanding that the claim in the suit was time-barred; and was right in rejecting the plaint under Order VII Rule 11(d) CPC.
19. The appeal is accordingly dismissed, as being without merit.
20. Pending applications, if any, also stand disposed-of.
21. It is however clarified, that the present decision would in no manner bar the appellant from applying for a fresh electricity connection or for restoration of his electricity connection, which the respondent would consider, in accordance with law.

ANUP JAIRAM BHAMBHANI, J

JULY 14, 2025

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