

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 10864 of 2023

Petitioner :- Kalawati Devi

Respondent :- Uttar Pradesh Power Corporation Ltd. And 2 Others

Counsel for Petitioner :- Ravish Chandra Srivastava, Vijay Kumar Ojha

Hon'ble Ashutosh Srivastava, J.

Heard Shri Vijay Kumar Ojha, learned counsel for the petitioner.

Considering the nature of the order that is proposed to be passed the notice upon the respondents is being dispensed with.

The instant petition under Article 227 of the Constitution of India has been instituted for setting aside the order dated 24.07.2023 passed by the District Judge Varanasi in Misc. Appeal No. 134 of 2022 (Kalawati Devi vs. U.P. Power Corporation Ltd. and others) and order dated 21.05.2022 passed by Civil Judge (Junior Division) in Original Suit No. 1561 of 2021 (Kalawati Devi vs. U.P. Power Corporation Ltd. and others) whereby the interim injunction application filed by the petitioner/plaintiff in the aforesaid suit has been rejected and Appeal filed against the same has also been dismissed. Further prayer has been made to direct the Court below to grant interim injunction staying the coercive measure sought to be taken by the department for the recovery of the amount against electricity dues and as an interim measure the electricity connection may be granted to the petitioner.

It is the case of the petitioner that she has come in possession of a house being house No. CK 65/29, Vaka Mohalla Badi Piyari City Varanasi as owner, under a registered Will dated 05.12.2003 said to be executed by one Smt. Bhola Devi, original owner, consequent to her death on 21.02.2019. The name of the petitioner stands recorded in the relevant records as owner of the house. Earlier one Atmaram Seth was the licensee of Late Bhola Devi and had been residing in the house in question. The said licensee obtained an electricity connection in his name and defaulted in the payment of the electricity charges and consequently the electricity connection to the house in question was disconnected. The erstwhile owner of the house namely Smt. Bhola Devi instituted Suit No. 873 of 1998 for the eviction of the said Atmaram from the house in question which suit was decreed and the said Atmaram was dispossessed from the house in question in the year 2012. Atmaram vacated the house without paying the electricity charges to the tune of Rs. 57,866/-. When

the petitioner took possession of the house as owner under the Will dated 05.12.2003 she applied for an electricity connection which was refused by the electricity department on the ground that there existed dues of electricity against the House in question and a new connection could be granted only after the dues are discharged. The electricity department was adamant to recover the electricity dues from the petitioner. The petitioner in these circumstances was constrained to institute the Suit No. 1561 of 2021 for Mandatory Injunction to grant electricity connection as also prohibitory decree restraining the defendants from recovering the amount of electricity dues of Atmaram from the plaintiff/ petitioner. The petitioner along with the plaint also filed an application for Temporary Injunction. The Temporary Injunction Application came to be rejected by order dated 21.05.2022 on the ground that the plaintiff/ petitioner utterly failed to establish prima facie case. Consequently the elements of balance of convenience and irreparable loss were not material. The Appellate Court in Misc. Appeal under Order 43 Rule 1 (r) CPC has rejected the Appeal and maintained the order dated 21.05.2022.

Learned counsel for the petitioner has argued that both the Courts committed manifest illegality in refusing to grant the injunction prayed for.

I have heard the learned counsel for the petitioner and have perused the record. I find that the orders passed by the Courts below are just and proper and call for no interference in exercise of powers under Article 227 of the Constitution of India.

In view of the above, this Court is not inclined to grant the relief as prayed for.

Learned counsel for the petitioner submits that since the Court is not inclined to set aside the orders impugned it may consider to expedite the proceedings of the Suit itself.

This Court is conscious of the position of law that directions for expeditious disposal of the suit proceedings should be issued with the great care and circumspection. The power is to be exercised in extraordinary circumstances and not in a routine manner. The present suit deals with the denial of electricity connection to the premises of the petitioner on the ground that there are electricity dues of the earlier occupant of the premises and in respect of the recovery of such electricity dues from the petitioner. In the peculiar circumstances that stand attracted to the case of the petitioner this Court deems it appropriate to dispose off this petition by directing expeditious disposal of the suit.

Accordingly, the learned Civil Judge (Junior Division), Varanasi, *in*

seisin of the Original Suit No. 1561 of 2021 (Kalawati Devi vs. U.P. Power Corporation Ltd. and others), is directed to proceed with the suit, conclude and decide the same in accordance with law, as expeditiously as possible without granting any unnecessary adjournments to either of the parties.

With the aforesaid observation the petition is ***disposed off***.

Order Date :- 29.11.2023

Deepak/