

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 1646 OF 2014
WITH
CHAMBER SUMMONS (L) NO. 213 OF 2014**

Trupti Harishchandra Puranik	}	
and Ors.	}	Petitioners
versus		
The Divisional Engineer 'D' Ward	}	
and Ors.	}	Respondents

Mr. A. Y. Sakhare-Senior Advocate
i/b.Mr.Kantilal H. Kanojia for the Petitioner.

Mr. A. B. Ketkar with Mr. Rakesh L. Singh
i/b.M/s. M. V. Kini and Co. for Respondent
Nos. 1 and 2.

Mr. M. J. Pandya for Respondent No. 4.

**CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.**

DATED :- JULY 24, 2015

P.C. :-

The Petitioner is the co-owner of an immovable property/building in which one Suvarnakar was the tenant. Rasiklal K. Suvarnakar and his wife Virbala, according to the Petitioner, have expired. The Respondent No. 4 has filed a Suit in the Small Causes Court at Mumbai for a declaration that he is a tenant in respect of the Suit premises. The Suit is pending.

2) Since the Petitioner was not consenting to the electricity bill being issued in the name of Respondent No. 4, the Respondent electricity company did otherwise that is how the Petitioners approached this Court. A detailed order was passed in which it was directed that the concerned Engineer and in the employment of the BEST will hear both sides and pass a reasoned order. A reasoned order has been passed and a copy of which is placed on record after amending the Writ Petition. This order is passed on 14th July, 2014.

3) Mr. Sakhare-learned Senior Counsel appearing for the Petitioner invited our attention to the policy of the BEST, certain procedural circulars and the findings in this impugned order to urge that if the record from the electricity company is produced as a piece of evidence in the Court of Small Causes at Mumbai together with the findings in the impugned order, then, the learned Judge of that Court is likely to be influenced while trying and deciding the above referred Suit. He would be influenced by certain observations and findings particularly on the physical occupancy of the premises by Respondent No. 4.

4) After carefully perusing the Writ Petition and both orders, initially made and later passed, with the assistance of Mr. Sakhare, we do not think that the Trial Court will be influenced by such observations

and findings. These are essentially rendered in order to enable the electricity company to deal with somebody, claiming to be occupying the premises, for recovery of electricity charges for electricity/energy supplied by the electricity company in terms of its obligation under the Indian Electricity Act, 2003. That authority may be approached for transfer of names on the electricity bills and the BEST records, but when it deals with such applications and requests, its conclusions can never bind a competent Court and which has to determine the issue of tenancy. That will have to be addressed and decided by taking into consideration the provisions of general law and equally the Maharashtra Rent Control Act, 1999. We have no doubt that the learned Judge of the Trial Court will not be influenced by any such conclusions as are drawn in the impugned order but will take an independent decision on the issues raised before him. We clarify that all the contentions of the Petitioner with regard to the conclusions reached in the impugned order are kept open. Equally, the Trial Court shall afford complete opportunity to the Petitioner to cross-examine the witnesses in the event the records of the BEST are produced. Keeping all contentions of both sides open, we dispose of the Writ Petition.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)