

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C) .No. 1527 of 2012 (M)

PETITIONER(S) :

SARAYU, AGED 78 YEARS,
D/O. NARAYANI, KUNNIL THEKKETHIL,
THEKKE MANKUZHI,
BHARANIKKAVU VILLAGE.

BY ADVS.SRI.S.K.MURALEEDHARA KAIMAL
SRI.C.P.RAVIKUMAR
SRI.S.MOHANAN

RESPONDENT(S) :

1. EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, MAVELIKARA.

2. ASSISTANT ENGINEER,
MODEL ELECTRICAL SECTION,
KATTANAM, MAVELIKARA TALUK.

3. JAYAPALAN, AGED 56 YEARS,
S/O. CHAKRAPANI, CHYTHANYA,
CHIRAKKADAVAM MURI,
KAYAMKULAM VILLAGE.

R1 & R2 BY ADV.SRI.SAJEEVKUMAR K.GOPAL, SC, KSEB.
SRI.K.M.SATHYANATHA MENON, SC, KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 12-11-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.P.(C) NO.1527 OF 2012

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF THE SETTLEMENT DEED NO.1893 OF 1995
OF BHARANIKKAVU SUB REGISTRY.

EXT.P2 - TRUE COPY OF THE DEED CANCELLING EXT.P1
SETTLEMENT DEED.

EXT.P3 - TRUE COPY OF THE PLAINT IN OS NO.412/2011 ON THE
FILE OF THE MUNSIFF'S COURT, KAYAMKULAM.

EXT.P4 - TRUE COPY OF THE REPLY DATED 27/12/2011 ISSUED
BY THE 2ND RESPONDENT.

EXT.P5 - TRUE COPY OF THE APPLICATION DATED 6/1/2012
SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P. (C) No.1527 of 2012-M

Dated this the 12^h day of November, 2015

JUDGMENT

The petitioner is a senior citizen, having crossed the age of 80 years, and her grievance is that the electric connection to her house stands disconnected by the 2nd respondent, at the instance of the 3rd respondent, who is none other the son of the petitioner.

2. It is the case of the petitioner that, she has been residing in the building which belonged to her. It is also stated that earlier, she had executed Ext.P1 settlement deed in favour of the 3rd respondent and thereafter, she has cancelled Ext.P1 by Ext.P2 and the property and the building thereon are in the absolute possession and enjoyment of the petitioner. Even

though the 3rd respondent has filed Ext.P3 Original Suit before the Munsiff's Court, Kayamkulam, the same is pending consideration only. In short, according to her, the property and the building thereon belong to her. While so, the 2nd respondent disconnected the electric connection on the request of the 3rd respondent. Thereafter, even though the petitioner has approached the 2nd respondent to restore the electric supply to her residence, the 2nd respondent has issued Ext.P4 reply refusing her request. Thus, the petitioner is aggrieved by the rejection of her request for reconnection.

3. Going by the counter affidavit filed by the 2nd respondent, it is seen that the petitioner is not a defaulter in payment of electric charges; but the electric connection was disconnected at the instance of the 3rd respondent who claims that he is the occupier of the building.

4. Heard.

5. The learned counsel Standing Counsel for the 1st and 2nd respondents advanced arguments in

support of the reasons, whereby the electric connection was disconnected.

6. Admittedly, the petitioner is not a defaulter in payment of electric charges and no amount is due from the petitioner. Ext.P3 shows that the 3rd respondent himself admitted that she was residing in the building. Though she has executed Ext.P1 settlement deed in favour of the 3rd respondent, the same stands cancelled by Ext.P2 cancellation deed. The legal validity of Ext.P2 is pending consideration before the competent civil court. But the 2nd respondent has disconnected the electric connection on the reason that the petitioner is not the occupier of the building and her application for reconnection was considered as if it was a fresh application for connection. Thus, the title and possession over the property is disputed and pending consideration before the civil court and it is evident from Ext.P3 that the petitioner also resides in the residential building.

7. In the above circumstances, the 1st and 2nd respondents cannot be justified, in considering her

application, as if it was an application for a new connection. Considering the pendency of the title dispute, the 2nd respondent is directed to consider Ext.P5 application as if it is an application for re-connection of the existing connection, within a period of one month from the date of production of a copy of this judgment.

This writ petition is disposed of accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge