

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WA.No.603 of 2015 (A) IN WP(C).1115/2015

AGAINST THE ORDER/JUDGMENT IN WP(C) 1115/2015 of HIGH COURT OF KERALA
DATED 04-03-2015

APPELLANT/4TH RESPONDENT:-

P.LALITHAMMA, AGED 80 YEARS,
W/O.LATE RAGHAVAN PILLAI, RESIDING AT I-B,
CRYSTAL APARTMENTS, RAJASOORYAM, GOVINDAPURAM KARA,
KOTTAYAM - 686 001.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANATH
SRI.C.DINESH
SMT.ASHA BABU
SMT.AMMU CHARLES

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 3:-

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1. SMT. MARY PHILIP, AGED 69 YEARS,
W/O.REV.M.T.PHILIP (LATE), RESIDING AT FLAT NO.1-B,
CRYSTAL APARTMENTS, RAJASILPAM, KOTTAYAM - 686 001.
 2. THE KERALA STATE ELECTRICITY BOARD LIMITED,
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM - 695 004.
 3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION,
KERALA STATE ELECTRICITY BOARD LIMITED,
KOTTAYAM CENTRAL, PIN-686 001.
 4. M/S.CRYSTAL APARTMENT,
CSI COMMERCIAL COMPLEX, BAKER JUNCTION,
KOTTAYAM - 686 001,
REPRESENTED BY ITS MANAGING PARTNER SRI.BINNY ITTY,
PIN - 686 001.

R2-R3 BY ADV. SRI.T.R.RAJAN,SC,K.S.E.B.
BY SRI.JAICE JACOB,SC,KERALA STATE ELECTRICITY BOARD
BY SRI.A.J.VARGHESE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-03-2015,
ALONG WITH WA. 604/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

W.A.Nos.603 & 604 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

P.N.Ravindran, J.

The appellant in these writ appeals is the 4th respondent in W.P.(C) No.1115 of 2015 and the 3rd respondent in W.P.(C)No.1885 of 2015. The said writ petitions were heard and allowed by a common judgment delivered on 4.3.2015. By the said judgment, a learned single Judge of this Court directed the Kerala State Electricity Board Ltd. to consider the applications submitted by the writ petitioners for electricity connection and to provide service connection on the production of proof of ownership of the apartment, if the applications are otherwise in order. The learned single Judge also observed that, if the petitioners have not submitted applications so far, it shall be open to such petitioners to submit applications for service connection and in the event of such applications are being filed, service connection shall be provided without delay on production of proof of ownership of the apartment. The said common judgment is under challenge in these writ appeals.

2. In the counter affidavit filed by the appellant, who was the fourth respondent in W.P.(C)No.1115 of 2015 the main ground raised was that, as the occupancy certificate issued in respect of the apartment has

been cancelled by the Tribunal for Local self Government Institutions, the occupants cannot get electricity connection until the writ petitions filed by them are allowed. In the counter affidavit filed by the appellant, who was the 3rd respondent in W.P.(C)No.1885 of 2015 also more or less similar contentions were raised. It was also contended that the very construction of the apartment building is illegal and therefore no electricity connection can be granted. It is not in dispute that, by a common judgment delivered on 4.3.2015 the learned single Judge had allowed W.P.(C) No.31437 of 2010 and W.P.(C)No.24436 of 2012 setting aside the order passed by the Tribunal for Local Self Government Institutions whereby the Tribunal had cancelled the occupation certificate issued in respect of the apartment building and restored the occupancy certificate. By the very same judgment W.P.(C)No.26700 of 2011 was dismissed. The learned single Judge has in the impugned judgment held that, as the occupancy certificate has been restored, the apartment owners have a right to get electricity supply on proof of production of ownership, if the applications are otherwise in order. In the counter affidavit filed by the 4th respondent two contentions are raised. The first is that construction of the apartment building is illegal. The second is that the ownership certificate issued to the apartment building has been cancelled by the Tribunal for Local Self Government Institutions. As regards the second contention, in view of the

judgment of the learned single Judge allowing W.P.(C)No.31437 of 2010 that contention is no longer available to the appellant. Apart from vaguely contending that the construction of the apartment building is illegal the appellant has not pointed out with clarity the illegality if any in the construction. It is also not known whether the illegality is something which can be regularised. If ultimately the construction is found to be illegal or unauthorized, the building will have to be demolished and the mere fact that in the meanwhile electricity connection has been obtained will not stand in the way of the competent authority from ordering demolition of the building. Under the provisions of the Building rules even a building which has got electricity connection can be demolished if it is found that the construction is unauthorized or illegal. Besides, the appellant does not dispute the title of the writ petitioners. Therefore for that reason also we are of the opinion no interference is called for with the impugned judgment.

We accordingly hold that there is no merit in these appeals. The writ appeals fail and are accordingly dismissed.

P.N.RAVINDRAN, JUDGE

skj

ANIL K.NARENDRA, JUDGE