

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

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

WA.No. 718 of 2015 () IN WP(C).5075/2015

AGAINST THE JUDGMENT IN WP(C) 5075/2015 of HIGH COURT OF KERALA
DATED 06-03-2015

APPELLANT/4TH RESPONDENT IN THE WP(C):-

MS.PATHUNNI UMMA,
CHELENGARA KURIKKAL
KARIVARAMKUNDU VAZHI, IRINGATTIRI P.O
MALAPPURAM - 676 523
REPRESENTED BY POWER OF ATTORNEY HOLDER MR.ISHAQUE A.T.

BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURIAN THOMAS

RESPONDENTS/PETITIONERS 1 & 2/RESPONDENTS 1 TO 3 IN THE WP(C):-

1. SHIHABUDIN,
MUTTUPPARA HOUSE, EDAPATTA P.O, MELATTOR VAZHI
MALAPPURAM - 679 326.
2. BUSHARA,
MUTTUPPARA HOUSE, EDAPATTA P.O
MELATTOR VAZHI, MALAPPURAM - 679 326.
3. THE KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVANAM, PATTOM
THIRUVANANTHAPURAM - 695 004
REPRESENTED BY ITS SECRETARY.
4. THE EXECUTIVE ENGINEER,
ELECTRICAL SECTION, K.S.E.B., PERINTHALMANNA
MALAPPURAM - 679 322.
5. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, K.S.E.B, MELATTOOR
MALAPPURAM - 679 326.

R3 -R 5 BY ADV. SMT.P.K.RADHIKA-KSEB
R1 TO R2 BY SRI.PJAYARAM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No.718 of 2015

Dated this the 25th day of March, 2015

J U D G M E N T

P.N.Ravindran, J.

The appellant is the fourth respondent in W.P.(C) No.5075 of 2015. Respondents 1 and 2 are the petitioners and respondents 3 to 5 are respondents 1 to 3 therein. Respondents 1 and 2 filed W.P.(C) No.5075 of 2015 challenging Ext.P11 proceedings dated 8.12.2014 issued by the third respondent in the writ petition whereby he took the stand that the electricity connection can be provided to the residence of the writ petitioners only after the civil suit instituted by the appellant in O.S.No.212 of 2014 on the file of the Court of the Munsiff of Perinthalmanna is tried and disposed of.

2. The writ petitioners (Respondents 1 and 2) are admittedly in possession of the plaint schedule property in O.S.No.212 of 2014. The relief sought in O.S.No.212 of 2014 is for recovery of possession on the strength of title. The appellant has also prayed for a mandatory injunction directing the defendants to demolish and remove the sheds put up by them in the plaint schedule property. It is evident from the averments in the plaint in O.S.No.212 of 2014 that the writ petitioners are in possession and enjoyment of the suit

property and they have put up buildings therein. In such circumstances, as rightly held by the learned single Judge, the appellant cannot be heard to contend that electricity connection should not be provided to the buildings standing in the plaint schedule property. So long as the defendants in the suit are in possession of the plaint schedule property, they are entitled to exercise acts of possession. The appellant cannot in our opinion legitimately object to the electricity connection being granted to the buildings situate in the plaint schedule property. If the appellant succeeds and the suit is decreed as prayed for, she will get possession of the property and the buildings therein will also be demolished. The electricity connection if any granted to the writ petitioners will not stand in the way of the trial court from deciding the suit on the merits.

We therefore find no good grounds to entertain the writ appeal. The writ appeal fails and it is dismissed in limine.

**P.N.RAVINDRAN,
(JUDGE)**

**ANIL K.NARENDRA,
(JUDGE)**

vps