

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&**

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WA.No. 1571 of 2015 () IN WP(C).20216/2015

**AGAINST THE JUDGMENT IN WP(C) 20216/2015 of HIGH COURT OF KERALA DATED
16-07-2015**

APPELLANT(S):

**BABY K.K.
S/O.KURIAKOSE, AGED 52 YEARS, KARIKKETH HOUSE
THALAKODE P.O., KANAYANNUR VILLAGE, KANAYANNUR TALUK
MULANTHURUTHY, ERNAKULAM-682 314.**

**BY ADVS.SRI.VARGHESE MUNDAKKAL
SRI.SANIL KUMAR**

RESPONDENT(S):

**1. OUSEPH CHACKO
S/O.OUSEPH, AGED 80 YEARS, CHOORAKULANGARA HOUSE
THALAKODE P.O., MULAANTHURUTHY, KANAYANNUR VILLAGE
KANAYANNUR TALUK, ERNAKULAM, PIN-682 314.**

**2. THE ASSISTANT EXECUTIVE ENGINEER
KSEB CHOTTANIKKARA SECTION, CHOTTANIKKARA PO
ERNAKULAM 682312**

**R1 BY ADV. SRI.VARGHESE P.CHACKO
R2 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 30-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

avk

**P.R.RAMACHANDRA MENON
&
BABU MATHEW.P.JOSEPH, JJ**

**W.A.No.1571 of 2015
in
W.P.(C).No.20216 of 2015**

Dated this the 30th day of July, 2015

JUDGMENT

P.R.RAMACHANDRA MENON, J

The appeal has been preferred by the landlord of the building bearing No.V/577 to which power supply has been provided under Consumer No.16343, being aggrieved by the interim order dated 16.07.2015 passed by the learned single Judge in W.P.(C).No.20216/2015.

2. The writ petition was filed by the tenant, with the following prayers:-

- “i) issue a writ, order or direction in the nature of mandamus directing the 1st respondent Kerala State Electricity Board to urgently restore electric supply into the consumer number mentioned in Exhibit P2, electricity bill, so as to facilitate electric supply to the bakery and cool bar shop conducted by the petitioner herein.*
- ii) issue a writ, order or direction in the nature of mandamus directing the 1st respondent Kerala state Electricity Board, not to aid the petitioner tenant or the 2nd respondent land lord, in any tenancy or otherwise dispute other than in accordance with law, or as per orders passed by appropriate Courts of Law.*
- lii) issue such other appropriate writ order as this Honourable Court may deem just and proper to issue in the circumstances of the case.”*

3. It appears that there is a dispute between the appellant/landlord and the 1st respondent/tenant who is stated as in occupation of the building from 1967. The appellant/landlord purchased the said building only in the last year, from the erstwhile owner and immediately thereafter, he has been allegedly taking all possible steps to see that the tenant was evicted somehow or the other. It was with this intent, that the landlord approached the local authority and obtained an order to the effect that the building, by virtue of its alleged dilapidated condition, was to be demolished. The said order was sought to be challenged by approaching the Tribunal by the 1st respondent tenant; wherein Annexure A1 order was passed, holding that the latter had to move the Panchayat Committee in terms of Section 276 (1) of the Kerala Panchayat Raj Act. The coercive proceedings were ordered to be kept in abeyance for a period of one month, so as to enable the tenant to pursue such exercise.

4. Pursuant to the said direction, it is stated that the 1st respondent has moved the Panchayat Committee and has obtained an Interim Order of stay against the order of demolition, which is still in operation. It is in the meanwhile, that the appellant herein, approached the authorities of the Electricity Board and submitted an application to cut off the electricity connection, stating that the building belonged to him. The authorities of the Board were too

eager to act upon the said petition and thus, the connection was cut off on 30.6.2015. This made the 1st respondent, who is running a bakery and cool bar in the premises to approach this Court by filing W.P.(C).No.20216/2015, pointing out that substantial loss has already been sustained because of the highhanded action pursued by the landlord and the Electricity Board. It is stated that no arrears lie to be satisfied by the tenant, nor is there any instance of violation of any provisions with regard to the supply of electricity. It is also pointed out that no proceedings are pending before any Court with regard to eviction, under the provisions of Building and 'Rent Control Act'.

5. The stand of the landlord as well as the Electricity Board is that the 1st respondent herein, is not the actual consumer and that the connection is provided to the room which is in possession of the landlord and that portion of the room is already demolished. The supply taken to room in occupation of the 1st respondent/tenant is from the room which was in possession of the landlord. As such, it was an instance of unauthorized extension of power supply and that penal action was taken against all concerned. The learned single Judge passed an Interim Order to attempt for an amicable settlement; simultaneously directing to restore the power supply. The interim order dated 16.7.2015 reads as follows:-

“ There will be an interim direction to restore the electricity supply to the premises covered by Exts.P2 and P6 bills within a period of two days”.

It is in the correctness and sustainability of the said order, that has been sought to be challenged by filing this appeal.

6. After hearing both the sides, this Court finds that the parties are at liberty to move the single Judge, after completion of the pleadings. This Court does not find it as a fit case to call for interference by way of appeal. Interference is declined and the appeal is dismissed.

**Sd/-
P.R.RAMACHANDRA MENON
JUDGE**

**Sd/-
BABU MATHEW P JOSEPH
JUDGE**

//TRUE COPY//

PA TO JUDGE

avk