

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 20206 of 2015 (A)

PETITIONER(S):

**SMITHA SAHADEVAN, SANTHOSH BHAVAN,
MUTTAMBALAM, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.P.CHANDRASEKHAR,
SRI.S.PRASANTH,
SRI.SOORAJ T.ELENJICKAL,
SMT.UMA,
SRI.K.NANDAKUMAR,
SMT.P.M.MAZNA MANSOOR,
SMT.V.A.HARITHA,
SRI.P.VIVEK.**

RESPONDENTS:-

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- 1. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY SECRETARY, VYDYUTHI BHAVAN,
PATTAM, THIRUVANANTHAPURAM.**
 - 2. ASSISTANT ENGINEER,
ELECTRICAL MAJOR SECTION,
KOTTAYAM EAST, KOTTAYAM DISTRICT.**
 - 3. THE ASSISTANT ENGINEER,
ELECTRICAL SECTION, KERALA STATE ELECTRICITY BOARD,
KOTTAYAM DISTRICT.**
 - 4. THOMAS GEORGE,
S/O.K.T. GEORGE, KAKKUZHIYIL HOUSE,
MATTASSERYKARA, S.H. MOUNT P.O., KOTTAYAM.**

**R1 TO R3 BY ADV. SRI.SAJEEVKUMAR K.GOPAL, SC.
R4 BY ADVS. SRI.B.ASHOK SHENOY,
SRI.THOMAS P.MAKIL,
SRI.K.V.GEORGE,
SRI.P.N.RAJAGOPALAN NAIR,
SRI.P.S.GIREESH,
SRI.RIYAL DEVASSY.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. A TRUE COPY OF LETTER DATED 15.06.2015 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXHIBIT P2. A TRUE COPY OF THE COMMON ORDER DATED 31.01.2012 PASSED BY THE RENT CONTROL COURT, KOTTAYAM IN R.C.(OP)NO.29/2009, RC(OP)NOS.27/2009 AND 28/2009.
- EXHIBIT P3. THE TRUE COPY OF THE ORDER IN I.A.407/2012 IN RCA NO.16/2012 PASSED BY THE ADDITIONAL RENT CONTROL APPELLATE AUTHORITY, KOTTAYAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.20206 OF 2015 (A)

Dated this the 13th day of November, 2015

J U D G M E N T

The petitioner is a tenant of a shop room in a building owned by the 4th respondent. It is stated that the petitioner was conducting a medical store in the said building, but pursuant to a fire accident which damaged the electrical installation in the premises, the petitioner could not conduct the medical store thereafter. The petitioner however completed the wiring and electrical installation in the premises afresh and requested the respondent Board to restore the electric connection to the premises at her cost. The respondent Board, however, insisted that the petitioner should produce a no objection certificate from the owner of the building and also a land tax receipt in respect of the premises. The grievance of the petitioner in the writ petition is essentially that, inasmuch as there is a dispute pending between the petitioner and the landlord, namely, the 4th respondent, she is not in a position to obtain a no objection certificate or the land tax receipt from the 4th respondent. It is therefore that she has approached this Court through the present writ petition, seeking

a direction to the respondents 1 to 3 to restore electric connection to the premises without insisting on the aforesaid two documents.

2. I have heard the learned counsel for the petitioner, the learned Standing counsel for respondents 1 to 3 and also the learned counsel for the 4th respondent.

3. Learned counsel for the 4th respondent would submit that the anxiety of the 4th respondent is essentially that the petitioner may use the restoration of electric connection to the premises, as a ground to contend that she has always been in possession of the premises in question. It is pointed out that the Rent Control Petition, that was preferred by the 4th respondent for evicting the petitioner, was decreed in favour of the 4th respondent by specifically finding that the petitioner was not in possession of the tenanted premises. It is further pointed out that although the petitioner has since filed an appeal before the District Court, against the judgment and decree of the court below, the said appeal is pending and there is a possibility that the petitioner would use the restoration of electric connection to the premises as an additional ground to fortify her contentions in the

Rent Control Appeal. The learned Standing counsel for the respondent Board would submit that the insistence on the no objection certificate, as also the land tax receipt, as a precondition for restoration of electric connection, is based on Regulation 45 of the Kerala Electricity Supply Code, 2014.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the insistence by the respondent Board of a no objection certificate, as also a land tax receipt, from the owner of the building, under circumstances where there is a dispute between the owner of the building and the tenant that is pending consideration before this Court, would result in a situation where it would be impossible for the petitioner [the tenant] to apply for a restoration of the electric connection to the premises. I therefore feel that the interests of justice would be served by directing the respondents 1 to 3 to forthwith restore the electrical supply to the premises in question, subject to the petitioner complying with the attendant formalities in connection with the same, other than the requirement of production of the documents mentioned in Ext.P1. It is made clear that the mere restoration of electric supply to the

premises of the petitioner will not prejudice the contentions of the 4th respondent in the Rent Control Appeal that is stated to be pending before the District Court, at the instance of the petitioner.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/13/11/15