

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 465/2016**

1) John Manuel Vaz,
major,

2) Mrs. Elvira B. Vaz, major,
Both r/o. 2nd Floor, Altinho Apartments,
Altinho, Mapusa, Goa.

..... **Petitioners.**

V/s.

1) Chief Electrical Engineer,
Electricity Department,
Vidyut Bhavan, Panaji, Goa.

2) Executive Engineer,
Electricity Department,
Mapusa, Goa.

3) Mrs. Leonora Pereira,
major, house No.1131,
Palacette Rodriguese,
Mazal Vaddo, Anjuna 403509.

4) Mrs. Nirmala Nunes,
major, house No.1131,
Palacette Rodriguese,
Mazal Vaddo, Anjuna 403509.

Both Legal Representatives of
Mrs. Iria Maria dos Milagres
E. Ditosa da Costa, Alias Iria Da Costa
(deceased),

5) M/s. Super Builder,
through Vinay M.P. Verlekar,
presently known as Aarkay Traders,
Commerce Centre Opp. SBI
(A.D. Branch), Near Mapusa

Municipal Council-Goa 403507.

..... **Respondents.**

Ms. A. A. Agni, Senior Advocate with Ms. Aditi Kamat, Advocate for the petitioners.

Mr. S. D. Lotlikar, Advocate General with Mr. Sagar Dhargalkar, Additional Government Advocate for the respondent Nos. 1 and 2.

Mr. Anthony D'Silva, Advocate for the respondent No.4.

Mr. Parag Wagle, Advocate for the respondent No.5.

**CORAM :- F.M. REIS &
NUTAN D. SARDESSAI, JJ.**

Date : - 05/07/2016.

ORAL JUDGMENT : (PER F.M. REIS, J.)

Heard Ms. A. Agni, learned Senior Counsel appearing for the petitioners, Mr. S. D. Lotlikar, learned Advocate General appearing for the respondent Nos. 1 and 2, Mr. Anthony J. D'Silva, learned Counsel appearing for the respondent No.4 and Mr. P. Wagle, learned Counsel appearing for the respondent No.5.

2. Rule. Learned Counsel appearing for the respondents waive service. Heard forthwith, with the consent of the learned Counsel.

3. A short point for consideration after hearing the learned Counsel appearing for the respective parties is, whether the apprehension of the petitioners that the electricity supply to the Flat No.C-1, Second Floor, Altinho Apartments, Mapusa, Goa would be disconnected by the Electricity Department at the instance of the respondents No.3, 4 and 5, is justified in the facts and circumstances of the case.

4. The learned Counsel appearing for the respondent No.5 points out that as the electricity connection stands in the name of the respondent No.5 and as the person occupying such flat is not legally entitled to such flat, it is open to the respondent No.5 to seek disconnection of the electricity supply. It is further pointed out by the learned Counsel that as such, no restraint order can be issued against the respondent No.5 with that regard.

5. Mr. S. D. Lotlikar, learned Advocate General appearing for the respondents No.1 and 2 submits that the Department is entitled to disconnect the electricity supply only when there is default in payment of energy charges or otherwise in accordance with law.

6. Ms. Agni, learned Senior Counsel appearing for the petitioners points out that at least relief in terms of prayer clause (b) has to be granted while disposing of the above petition.

7. We have considered the submissions of the learned Counsel and we have also gone through the records. The question of granting any relief in terms of prayer clause (a), in the facts and circumstances of the case, would not arise at all. The claim of the petitioners is of statutory tenant and, it appears that there are some proceedings pending before the Competent Court in connection with the subject premises, with regard to the deposit of rent. Be that as it may, unless there is a specific order with regard to the occupation of the petitioners, it cannot be disputed that the petitioners are entitled for electricity supply to the subject flat, provided electricity charges are duly paid from time to time.

8. In such circumstances, we dispose of the above writ petition by directing the respondents No.1 and 2 not to disconnect the electricity connection to Flat No. C-1, Second Floor, Altinho Apartments, Mapusa, Goa at the instance of the respondents No.3, 4

and 5 or on any ground except for non-payment of electricity charges otherwise than in due process of law.

9. With the aforesaid directions, Rule stands disposed of. All contentions of both the parties, on merits, are left open.

NUTAN D. SARDESSAI, J.

F.M. REIS, J.

ssm.