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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3598/2014

NARINDER KHULLAR

..... Petitioner

Through

Mr.Rajat Aneja with Ms.Chandrika
Gupta, Advocates.

versus

TATA POWER DELHI DISTRIBUTION LIMITED

..... Respondent

Through

Mr.Abhay Kumar with Mr.Bilal Khan
and Mr.Aamir Hassan, Advocates for
R-1.

Mr.Sanjeev Soni, Advocate for R-2 &
3.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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21.07.2016

By way of present writ petition, the petitioner/tenant seeks installation of electricity connection.

In the present case, there is a dispute between the petitioner/tenant and respondent nos. 2 & 3/landlords. Consequently, the petitioner/tenant states that he is unable to file any title/tenancy documents with respondent no.1.

This Court is of the view that electricity is a basic requirement without which the petitioner cannot effectively use and enjoy the premises in question. It is further settled law that right to electricity connection is a facet of Article 21 of the Constitution.

Consequently, the present writ petition is disposed of by issuing the following directions:-

- 1) The petitioner will file a fresh application with the respondent-DISCOM for installation of electricity connection in his name. The said application will be processed as per rules but without insisting on 'No Objection Certificate' from the respondent nos.2 & 3 and/or tenancy documents.
- 2) In addition to clearing all past dues and other charges, the petitioner will deposit three months security deposit based upon past consumption pattern. The amount will be calculated by the respondent-DISCOM. The respondent-DISCOM will be at liberty to ask for enhanced security deposit depending upon future consumption pattern.
- 3) The petitioner will continue to pay consumption charges as raised by the respondent-DISCOM every month. The security charges will not be adjusted against payment of current dues. The security amount will be refunded to the petitioner without interest if and when the petitioner is evicted or vacates the premises, subject to adjustment if any on account of arrears. The respondent-DISTCOM will be entitled to disconnect electricity in case current dues are not paid.
- 4) It is made clear that the respondent nos.2 & 3 will not be responsible or liable to pay current electricity charges on the meter which is being installed in the name of the petitioner. The petitioner will furnish and give details of his bank account and permanent address to the respondent-DISTCOM.
- 5) This Order is passed without prejudice to the rights and contentions of the petitioner and the respondent nos.2 & 3 in respect of their inter se dispute.

At this stage, learned counsel for respondent nos. 2 & 3 states that false averments have been made in the present writ petition. He refers to the tenancy agreement and the present writ petition to contend that a false averment has been made that the suit premises did not have any electricity connection. He prays that the proceedings be initiated under Section 340 Cr.P.C.

The Constitution Bench of the Supreme Court in *Iqbal Singh Marwah Vs. Meenakshi Marwah*, (2005) 4 SCC 370 has held that prohibition contained in Section 195 of Cr. P.C. is attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court, i.e., during the time when the document was “*custodia legis*”.

Keeping in view the aforesaid, respondent nos. 2 & 3 are given liberty to file appropriate proceedings before the concerned Court.

This Court, however, clarifies that it has not expressed any opinion on the merits of the controversy. Rights and contentions of all the parties are left open.

MANMOHAN, J

JULY 21, 2016
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