

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.16934 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue writ or order or direction one in the nature of mandamus declaring the action of the respondents 2 to 5 in disconnecting the power supply to the service connection No.2200801103 to H.No.2-8-82/4 PART, on plot No.1 & 2, admeasuring 202 sq.yards, in survey No.982 situated at khaitalapur, Kukatpally Village and H.No.12-8-884/1(old H.No.2-8-82/4 PART) consisting of 2 rooms and a shed on Plot No.3 admeasuring 227 Sq.yards situated at Khaitalapur, Kukatpally village without giving any notice to the petitioner is illegal and arbitrary and violation of principles of natural justice consequently direct the respondents 2 to 5 to restore the power supply to the petitioner forthwith for the service connection No.2200801103 to H.No.2-8-82/4 PART, on plot No.1 & 2, admeasuring 202 sq.yards, in survey No.982 situated at khaitalapur, Kukatpally Village and H.No.12-8-884/1(old H.No.2-8-82/4 PART) consisting of 2 rooms and a shed on Plot No.3 admeasuring 227 Sq.yards situated at Khaitalapur, Kukatpally village and pass such other order or orders as this Hon'ble Court deem fit and proper in the facts and circumstances of the case.”

2. Heard learned counsel for the petitioner and learned counsel for unofficial respondents 7 to 9 and learned Government Pleader for Home for the 6th respondent and Sri R.Vinod Reddy, learned standing counsel for the respondents

2 to 5 and learned Government Pleader for Energy for the 1st respondent and perused the prayer in the writ petition with supporting affidavit and counter affidavit of 7th respondent for respondents 7 to 9 and counter affidavit of 4th respondent for respondents 1 to 5.

3. As per the writ petition affidavit of the petitioner, in support of the prayer supra, it is the claim that the house No.2-8-82/4 PART, covered by plot Nos.1 and 2 of 202 square yards in S.No.982 of Khaitalapur Hamlet of Kukatpally Village, was taken on lease by the petitioner in February 2016 from the owner Satyanarayana for establishing water purifier plant, with name and style M/s.S.S.Bevarages, leave about the other averments regarding alleged terms of oral lease and any advance paid, which is not subject matter of the writ petition to go into, that the petitioner by running the said plant supplying two thousand tins each of 20 litres daily and when respondents 7 to 9 were trying to evict, under the claim as owners as vendees from the original owner Satyanarayana who let out to him, the petitioner maintained O.S.Nos.268 and 412 of 2016 on the file of the Principal Junior Civil Judge, Miyapur, which are pending and in the course of hearing, it is also brought on record from the counter affidavit of O.S.No.60 of 2017 filed in the same court and unnumbered suit Sr.No.4492 of 2017 in Principal Senior Civil Judge Court, Ranga Reddy District respectively, for eviction of the

petitioner which are pending, that at the instance of respondents 7 to 9, the respondents 1 to 5 disconnected the power supply without even notice and thereby maintained the writ petition.

4. The petitioner cause issued registered notice dated 04.03.2017 to the 2nd respondent not to make any attempt to disconnect the power supply without intimation for any reason and without hearing and equally notice earlier even issued to the Station House Officer, Kukatpally, dated 04.11.2016, of their trying to interfere, while issuing notices to the respondents 7 to 9 respectively before filing of the suits it appears as can be seen from the material on record.

5. The counter affidavits of respondents 7 to 9, in nutshell, is that the petitioner is illegally misusing the three phase power supply to the premises in question referred supra in the writ petition for the neighbouring tenement without permission either of the respondents 7 to 9 or of the Electricity Department representing respondents 1 to 5 and for such illegal action, the respondents 7 to 9 complained to the authorities and thereby the action no way can be questioned, much less, by maintaining a writ petition and the writ petition is liable to be dismissed.

6. Whereas it is the counter affidavit of the 4th respondent on behalf of the respondents 1 to 5 besides the said complaint

of so called drawing of unauthorized power from one service connection to the neighbouring service connection taking advantage of the alleged lease hold right of the petitioner, there are also arrears of Rs.77,840/- due by the petitioner towards the consumer charges for the month of April 2017 and thereby the service connection was disconnected. From perusal of the counter affidavit of 4th respondent, there is nothing to say any report by surprise visit of any pilferage or misusing of the license conditions of drawing power supply from one consumer connection to the other consumer connection, to give any much credence as a cause for disconnection therefrom. So far as the arrears concerned, the respondents 1 to 5 are entitled to disconnect for non-payment.

7. Having regard to the above and from the fact that any civil dispute between the landlords and tenants that can be adjudicated in the four suits including the unnumbered one pending before the civil courts which is outside the purview of the writ petition scope, without going into it, to vindicate their respective rights either thereunder or otherwise. So far as the disconnection of service concerned, subject to payment of the said arrears and usual connection charges, the respondents 1 to 5 are directed to restore power supply and it is made clear that this will not prevent the authorities concerned of respondents 1 to 5 or any of the subordinates competent if at

all by making any surprise visit of any pilferage or misuse of power to take appropriate action.

8. Accordingly, this writ petition is partly allowed with the above direction to the above extent. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

DR.B.SIVA SANKARA RAO,J

10.07.2017

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