

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.1127 OF 2017

Santosh Rivankar,
s/o. Late Sadanand Rivankar,
aged 36 years, married, businessman,
resident of Room No.7/5 and bearing
V.P. H.No.1009/2, Ambirna,
Doswaddo, Socorro, Bardez, Goa. Petitioner.

Versus

1. State of Goa,
(through Chief Secretary)
Porvorim, Bardez, Goa

2. Assistant Engineer (Elect),
Sub-Div.II. Porvorim,
Porvorim, Bardez, Goa.

3. Mr. Rajendra P. Halarnkar,
s/o. Late Purshottam Halarnkar,
major of age, r/o. H. No.4/1999/1,
Opp. Peddem Sports Complex,
Peddem, Mapusa, Bardez, Goa. Respondents.

Mr. Anthony Joe D'Silva, Advocate for the petitioner.

Mr. Dattaprasad Lawande, Advocate General with Mr. Amogh Prabhudessai, Additional Govt. Advocate for respondents No.1 and 2.

Mr. Amay Arjun Phadte, Advocate for respondent No.3.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 26 February 2018.

ORAL JUDGMENT : (Per N.M. Jamdar, J.)

Rule, made returnable forthwith. The respondents waive service. Taken up for disposal.

2. The petitioner has sought a writ of mandamus directing the respondent No.2-Electricity Department to restore the electricity connection, which has been disconnected.

3. It appears that the petitioner is currently occupying a residential premises, consisting of a ground plus one floor, located at Ambirna, Doswado, Socorro, Bardez, Goa. The respondent No.3 is the owner of the premises. It is the case of the petitioner that the petitioner has been inducted in the suit premises some time in the year 2000 and has been paying all necessary rents and charges. It is the petitioner's case that respondent No.3 stopped accepting the rent and made several complaints against the petitioner to the Authorities, as a consequence of which, the respondent No.2-Electricity Department cut off the electricity supply. The petitioner has approached the Human Rights Commission as well.

4. Mr. A. Phadte, the learned Counsel for respondent No.3 tendered a reply and submitted that the Petitioner is a rank trespasser and has no right to occupy the suit premises and cannot insist on reconnection of the electricity supply. He submitted that the Petitioner has ample remedies under the Electricity Act and cannot approach this Court seeking a writ of mandamus.

5. The learned Advocate General has brought to our notice Section 94A of the Goa, Daman and Diu Public Health Act, 1985 and the Rules of 1987 and submitted that it is only because of the complaints received from the respondent No.3-landlord that the Department has proceeded to disconnect the electricity supply and in the circumstances, the Court may pass appropriate orders.

6. Whatever may be the matter of *inter se* dispute between the Petitioner and the Respondent No.3, we are of the opinion that cutting of electricity on the complaint of the respondent No.3, is a drastic measure. The Petitioner is staying with his family in the premises. Merely because there are inter-se disputes between the Petitioner and the Respondent-owner of the premises, an extreme action of disconnecting the electricity supply altogether, is not warranted. Section 94A of the Act of 1985 and the Rules of 1987, confer power on the State Government to issue certain directions in

respect of essential supplies. It also takes care of the contingency of the disputes between the private parties. We are, therefore, of the opinion, that without expressing any opinion on the merits of the claim of the petitioner to the premises and keeping all rights of the respondent No.3 open, electricity supply can be temporarily restored by the Authority till the petitioner approaches the appropriate authority in respect of adjudication of his rights to continue in the premises.

7. Accordingly, we dispose of this writ petition by directing Respondent No.2-Electricity Department to restore the electricity supply to the premises in question immediately and continue the same for a period of three months, to enable the Petitioner to approach the competent Court in respect of his rights to continue occupying the suit premises. It is open to the Petitioner to pay the electricity bills for this period, if the Respondent No.3 does not pay the same.

8. Keeping all contentions of the Petitioner and the Respondent No.3 open, the writ petition is disposed of. Rule made absolute in above terms. No costs.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.