

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5370 OF 2018

Lakshman Baburao Kasar	... Petitioner
Vs	
Maharashtra State Electricity Distribution Co. Ltd. through Executive Engineer and Anr.	... Respondents

Mr.Prabhanjan Gujar for the Petitioner.

Mrs.Anjali R. S. Baxi for Respondent Nos.1 and 2.

**CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

WEDNESDAY, 31st OCTOBER, 2018

P.C. :

1 Heard both sides.

2 Rule.

3 Respondents waive service. By consent, the writ Petition is
taken up for final hearing and disposal.

4 The petitioner before us had applied for a electricity connection from respondent No.1 by making an application to the concerned authority, namely, the office of the second respondent.

5 From the record it appears that the immovable property is subject matter of a dispute between the petitioner and those claiming to be the owners. In paragraphs 4, 5 and 6 of the Writ Petition, it is claimed that the original owners agreed to sell this property, but having refused to honour an agreement in that behalf, regular Civil Suit No.103 of 1988 was filed in the competent Civil Court. From the further narration of facts it appears that during the pendency of this Suit, the property was sold to a third party, Rangnath Kulkarni on 16th November, 1989 and, therefore, that person was also impleaded as defendant No.7 to the Suit. The said Kulkarni also filed regular Civil Suit No.56 of 1990 for permanent injunction. By a common judgment and decree of 24th October, 1997, the petitioner's Suit was decreed whereas Shri Kulkarni's suit came to be dismissed.

6 Aggrieved and dissatisfied with this judgment and decree, regular Civil Appeals were filed. On 24th September, 2004, the Civil

Appeals were dismissed by the Civil Appellate Court.

7 The Appeals and decree came to be challenged by way of Second Appeals before this Court. The two Second Appeals are stated to be pending.

8 In the light of the fact that the property has a structure, which is claimed to be a residential one, the petitioner applied for electric supply, but that has not been granted on account of pendency of this civil dispute and an alleged objection by the local body, namely, Grampanchayat.

9 After having heard both sides at some length, we find that respondents were not justified in refusing the electric supply. Moreso, when the petitioner is not holding the respondents responsible for any dispute nor is claiming to involve them in the dispute, which is pending before this Court. Secondly, the petitioner has taken the entire responsibility in the event, any local body raises a claim against the property. Therefore, when the petitioner is ready and willing to pay all the charges and obtain the electricity supply at his risk, then, we do not

see any justification for the respondents not providing it.

10 The mandate of the Electricity Act, 2003 is clear. In that Act, it has been stated in clearest terms that the duty of a distribution licensee to supply electricity on request has to be performed and fulfilled. That is how Section 43 of the Act and its provisions operate. Once such is the obligation under the Act itself, then, we do not see any reason for the supply being not provided.

11 As a result of the above discussion, we allow this Writ Petition. We direct the respondents to provide electricity supply to the petitioner's premises on the petitioner fulfilling all the conditions of such supply, including making a proper application and in a prescribed form, paying the charges for connection as also for consumption of the electricity supply month to month or in such manner as is chargeable. Additionally, we direct the petitioner to furnish an indemnity, which will indemnify the respondents against all claims raised by the parties to the regular Civil Suits, regular Civil Appeals and Second Appeals, which are pending in this Court. Further, the petitioner shall indemnify the respondents against all claims of the local body, namely,

Grampanchayat Shindewadi, Taluka Khandala, District Satara. The Writ Petition stands disposed of accordingly. There will be no order as to costs.

[B.P. COLABAWALLA, J.]

[S.C. DHARMADHIKARI, J.]