

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.820 OF 2017

Harikrishna Thakorlal Gandhi .. Appellant
Versus
Priya Vidyadhar Patil and Ors. .. Respondents

Mr. K.K.Gandhi for appellant
Mr. Yogesh Dabke, AGP for State
Mrs. Madhuri More, for respondent No.s 9 and 11.

CORAM : DR.SHALINI PHANSALKARJOSHI, J.

DATE : 17th September 2018.

P.C.

Heard the learned Counsel for the appellant and the respondents. This appeal is directed against the order dated 30th May 2017, passed by the City Civil Court, Mumbai thereby rejecting the prayer clause (b-4) in Notice of Motion No.1909 of 2015, by which the relief of reconnection of electricity supply as well as water supply to the suit premises was claimed.

2] The grievance of the learned Counsel for the appellant is that the notice under section 354 of Mumbai Municipal Corporation

Act was issued by the Corporation in connivance and/or in collusion with the landlord i.e. the Shree Govind Nagar CHS, in which the appellant is one of the resident. It is submitted that the trial court should have, therefore, granted the relief of interim injunction directing the concerned respondents to restore water supply and the electricity connection; otherwise it is very difficult for the appellant and other occupants to continue to remain in the premises in their possession.

3] However, the learned Counsel for the respondents points out that the building is so dilapidated and has become dangerous that the Corporation was constrained to take action of disconnection of water and electricity. It is submitted that the evacuation letter was issued on 17th March 2015 to all the owners/ occupiers of the flats in society and they were asked to vacate the premises. However, as they failed to do so, considering the grave danger posed by the said dilapidated building, to the lives and property of the persons not only occupying the said building but also in the buildings nearby, the Corporation wrote a letter to Reliance Energy to disconnect the electric supply and so also cut the water supply. It is submitted that

the building is surrounded with G.I. sheets to avoid any mishaps. In view thereof, in my considered opinion, the trial court has rightly rejected the notice of motion for reconnection of electric supply and water supply.

4] As regards the grievance of learned Counsel for the appellant that there is collusion between the Municipal Corporation and office bearers of society, in my considered opinion, at this stage, such an inference cannot be drawn. To infer any collusion and connivance, there has to be oral evidence of parties to be tested on cross examination. At this prima facie stage, it is suffice to state that there is a notice issued by the Corporation under section 354 of the Mumbai Municipal Corporation Act stating clearly that the building is dilapidated and has become unsafe and dangerous. The majority of the members of the society have vacated the said building. It is admitted by the learned Counsel for appellant also, that at present no one is residing therein. In such a situation, the relief of re-connection of electricity and water supply cannot be granted. Therefore, the appeal holds no merit and stands dismissed.

5] As regards, the rights of the appellants over their premises, needless to state that in view of the directions given by this Court in W.P.No.1135 of 2014 those rights cannot go away. Those rights will always remain as and when reconstruction is done. Hence, on that count also relief of injunction is not warranted.

6] In view of dismissal of appeal, the pending applications therein also stand disposed off.

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(Dr. Shalini Phansalkar-Joshi, J.)