

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 227 OF 2018

Najma Mohd. Iqbal Qureshi .. Petitioner
V/s
The General Manager,
Brihanmumbai Electricity Supply & Transport
Undertaking & Ors. . Respondents

Mr. Jayesh Bhatt for the petitioner.
Miss Kavita Anchan i/b M.V. Kini & Co. for respondent no.1.
Mr. Manoj Harit i/bv Manoj Harit & Co. for respondent nos.3 to 5.

**CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : 13TH APRIL 2018

P.C.:

Affidavit in reply of respondent no.1 and affidavits in rejoinder of the petitioner to the affidavits in reply of respondent nos.1 and 4 tendered in Court today are taken on record.

2. At the outset, Mr. Jayesh Bhatt, appearing for the petitioner, states that this Court should not entertain any factual disputes. Firstly, the factual dispute about existence of two rooms, viz. Room Nos.39 and 39-A, is pending before a Competent Forum / Authority. Secondly, there are two suits, one filed by the 4th

respondent against the husband of the petitioner and the other by the petitioner against the 4th respondent pending in the Court of Small Causes at Bombay. Thirdly and importantly, the 1st and 2nd respondents are relying on a letter addressed by the Mumbai Building Repairs and Reconstruction Board (a unit of Maharashtra Housing & Area Development Authority) dated 19th March 2018 [Exhibit "D" at page 57 of the affidavit in reply of the 1st respondent]. Mr. Bhatt says on instructions that the petitioner takes the risk and in the event the Competent Authority / Court holds that there were no rooms, viz. Room Nos. 39 and 39-A, at the site, but a single room or a single structure, then, the petitioner may lose both in the event her claim of existence of two structures is found to be fraudulent.

3. Thus, on any factual matters which are raised by the 4th respondent or the State of Maharashtra or MHADA, the petitioner does not invite any ruling or decision of this Court.

4. Mr. Bhat says that he is aware that in writ jurisdiction, such factual matters and disputes cannot be resolved. However, as far as the electricity company is concerned, it had installed an electricity meter on the basis that there are two rooms, viz. Room Nos. 39 and 39-A. The electricity company has no business to then entertain any grievance of the landlord against the petitioner, particularly that there are no two rooms at the site. The electricity company has obliged the landlord by disconnecting the electricity

supply of the other room and that is beyond its purview and jurisdiction. Merely by relying on the indemnity bond, it cannot take this drastic action. It must await the decision of a Competent Court or Authority.

5. When we found some merit in this complaint, we inquired from Ms. Anchan appearing for respondent nos.1 and 2 that without prejudice to the rights and contentions of the respondents, will the respondent nos.1 and 2 reconnect the electricity supply to the premises of the present petitioner and, on instructions, she states that this will be done within one week, but the Court must protect the respondent nos.1 and 2 against any legal proceedings, particularly initiated by respondent no.4 against the husband of the petitioner and the petitioner.

5. In the light of the statement made by Ms. Anchan which is accepted as an undertaking to this Court, the grievance of the petitioner with regard to non-supply of electricity to her premises is resolved. That will be restored and she must pay the bills in relation to the same. However, the 4th respondent and the Competent Authority, in-charge of implementation of the scheme of redevelopment of the property, are not precluded or prevented from going ahead and pursuing their legal course or action and that can be done irrespective of the order and direction of this Court with regard to reconnection of the electricity supply. Merely because the

supply is reconnected does not mean that there are two rooms or two structures at the site. That is a dispute which must be independently resolved by a Competent Court / Authority. All contentions in regard thereto, particularly of the landlord and other respondents, are kept open. The electricity supply is directed to be reconnected without prejudice to the rights and contentions of all parties.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)