

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.81 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The appellant herein filed W.P. No. 43022 of 2017 seeking a mandamus to declare the action of Respondents 2 to 5 in disconnecting power supply to the petitioner's residential service connection bearing S.C. No. 1211304035756 covered under D. No. 4-17-16 of Tenali Town, Guntur District, without any notice as arbitrary and illegal.

While the appellant claims to have purchased the subject house from the 6th respondent, it is the 6th respondent's case that the appellant-writ petitioner is his tenant. The 6th respondent filed O.S. No. 363 of 2015 on the file of the Senior Civil Judge, Tenali seeking eviction of the appellant-writ petitioner from the said property. Thereafter, the appellant-writ petitioner filed O.S. No. 78 of 2016 on the file of the Principal Junior Civil Judge, Tenali seeking permanent injunction in respect of the said property. Both the Suits are said to be pending and Sri Peeta Raman, learned counsel for the appellant-writ petitioner, submits that no interlocutory order has been passed, in both the Suits, till date.

While matters stood thus, the 6th respondent appears to have made an application to the Andhra Pradesh Southern Power Distribution Company Limited seeking disconnection of power supply. On the ground that the 6th respondent had made such an application, power supply to the subject premises was disconnected without putting the appellant-writ petitioner on notice, and without giving him an opportunity of being heard. The effect of the order of disconnection is that the appellant-writ petitioner, who is admittedly residing in the

subject premises, is denied electricity in the subject house under his occupation.

Smt. Jagarlamudi Koteswari Devi, learned Standing Counsel appearing on behalf of respondents 2 to 5, would submit that, since the application for disconnection was made by the 6th respondent, the respondent-Board had no obligation to put the appellant-writ petitioner on notice; and they can straight away disconnect the power supply.

Such a contention, if accepted, would provide for another convenient, albeit illegal, mode of forcible eviction of the person in occupation of a building for it would, well nigh, be impossible for the person, in occupation of the premises, to continue to reside therein without electricity. *Prima facie*, even if, a request is made by a person, in whose favour the electricity connection is granted, seeking disconnection of power supply, the Distribution Company would be justified in disconnecting power supply only after the person in occupation of the building is put on notice, and is given an opportunity of being heard.

As, admittedly, no such notice was issued, the order under appeal is set aside, the Writ Petition is restored to file, and there shall be an interim order, as sought for in WPMP No. 53347 of 2017, pending further orders.

It is made clear that the order now passed by us shall be the interim order in the Writ Petition; and it is open to any of the respondents to seek vacation thereof before the learned Single Judge. It is also made clear that the order now passed by us shall not disable the official respondents from putting the appellant-writ petitioner on notice, give him an opportunity of being heard, and thereafter take action in accordance with law.

Smt. Jagarlamudi Koteswari Devi, learned Standing Counsel for the Southern Power Distribution Company, undertakes to instruct the officials concerned to forthwith restore electricity supply to the subject premises without awaiting a copy of the order now passed by us.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

25th January, 2018

Note:

Furnish c.c. by 29.1.2018

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