

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.11501 OF 2019

Chandanmal Mishrimal lalwani (Jain)

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr S.U. Chaudhari, Advocate for petitioner

Mr V.M. Kagne, A.G.P. for respondent-State

Mr Sanjay Munde, Advocate for respondents no.2 and 3

**CORAM : S.V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 17.10.2019

ORAL ORDER :

1. It is submitted that since September 2019, the electricity supply is disconnected.

2. According to Mr Chaudhari, learned Counsel for petitioner, the electricity is a basic amenity and the same is required to be provided by the respondents. He places reliance on the following judgments:

**(I) M. Mathiyaz Vs. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation
Ltd and ors. Reported in 2016 SCC Online Mad 3794;**

**(II) Madan Lal Vs. State of Himachal Pradesh and
ors., reported in 2018 SCC Online HP 1495**

3. Learned Counsel Mr Chaudhari submits that petitioner has made an application for restoration of the electricity connection. The respondents be directed to reconnect the electricity supply.

4. Mr Munde, learned Counsel submits that the occupier of the premises was one Mr Dhamne. He has purchased the property from the legal representatives of the original owner and he was in possession of the property as per contention of Mr Dhamne. The electricity connection was also in the name of Mishrilal Chhaganlal Bafna and it was transferred in the name of Mr Dhamne. Mr Dhamne filed an application to disconnect the electricity supply. Upon his application, the same was disconnected. Learned Counsel submits that the petitioner has a remedy before the Consumer Redressal Forum.

5. According to Mr Chaudhari, learned Counsel for the petitioner, the electricity connection was in the name of Mishrilal Chhaganlal Bafna.

6. It is further submitted by Mr Chaudhari that the civil litigation is pending. The *lis pendense* was registered in the year 2011.

7. We had asked Mr Chaudhari, learned Counsel as to whether order of injunction is passed in favour of the petitioner in the civil suit. Mr Chaudhari learned Counsel is not in position to make any statement in that regard. It is submitted that appeals are also pending. No orders are placed on record to conclude as to who is in possession as on date so as to pass order with regard to reconnection of electricity supply.

8. There are rival contentions. In absence of a conclusive evidence as to who is in possession of the property, it will not be possible to issue directions in favour of either party and against M.S.E.D.C.L.

9. The petitioner may approach the M.S.E.D.C.L. to prove his possession and otherwise. The M.S.E.D.C.L. shall consider the application of the petitioner in that regard.

10. It is upon the satisfaction of the M.S.E.D.C.L. as to the person in occupation of the property, the necessary decision be taken with regard to electricity supply on its own merits. The same shall be done on or before 26th October 2019, if the petitioner files the application and the evidence within two days with the M.S.E.D.C.L.

11. With these observations, writ petition disposed of. No costs.

(ANIL S. KILOR, J.)

(S.V. GANGAPURWALA, J.)

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