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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13597 OF 2018

WITH

CIVIL APPLICATION NO.2536 OF 2018

Govind Vinayak Deshpande ..Petitioner.
V/s.
The Deputy Executive Engineer, MSEB & Ors. ..Respondents.

Mr.P.B.Shah I/b. K.P.Shah for the petitioner.

Ms.Anjali R.Shiledar for respondent No.1.

Mr.Girish R.Agrawal with Sachin Padaye for respondent Nos.5 & 35.

CORAM : M.S.SONAK, J.

DATE : APRIL 22, 2019

ORAL JUDGMENT

Heard Mr.Shah, learned counsel for the petitioner,
Ms.Shiledar, learned counsel for respondent No.1 and Mr.Agrawal
learned counsel for respondent Nos.5 and 35.

2. Challenge in this petition is to the orders dated October 11,
2018 and October 18, 2018 by which learned trial Judge and the
Appeal Court rejected the petitioner's application for temporary

injunction restraining the respondents from availing electricity connection.

3. Mr.Shah, learned counsel for the petitioner submits that there is no dispute that the respondents are encroachers on the petitioner's property. He submits that Electricity Act, 2003 and Rules and Regulations therein provides for detailed procedure in the matter of electricity connection. He submits that without the consent of the owner, the authorities cannot grant electricity connection. He submits that even if the owner refuses consent, there is a procedure which is prescribed and the respondents having not followed the said procedure, he submits that since the respondents-customers are not entitled to any electricity connection, the two Courts have erred in rejecting the application for temporary injunction to the petitioner.

4. Ms.Shelidar and Mr.Agrawal, learned counsel for the respondents defend the impugned order on the basis of the reasoning reflected therein.

5. At the outset, from the perusal of the impugned orders, I am satisfied that no case has been made out which warrants interference in the impugned orders considering the restrictive parameters for interference in such matters as laid down in *Wander Ltd.*

*V/s. Anton Indian P. Ltd.*¹

¹ 1990 (supp) SCC 727

6. That apart, though the petitioner states that the respondents are encroachers, there is no relief for seeking eviction of the respondents. The only relief is alleged encroachers should not be supplied with electricity. The two Courts have held that there is no *prima facie* case made out. Even assuming that some *prima facie* case is made out, this is certainly not a case where the balance of convenience is in favour of denying electricity connection/supply. If such an interim relief is granted, then, that amounts to virtually decreeing the petitioner's suit at the interim stage.

7. The issue as to whether electricity connection is granted in accordance with the procedures prescribed under the Electricity Act and Rules and Regulations or not, would ultimately will have to be decided in the suit. However, there is no case made out to grant such a drastic interim relief in the terms prayed for by the petitioner.

8. Accordingly, the petition is dismissed. There shall be no order as to costs.

9. However, it is clarified that learned trial judge while deciding the suit need not be influenced by the observations in the impugned orders or for that matter the present order. It will have to decide the suit on its own merits and in accordance with the law. Since the suit is of the year 2014, learned trial Judge is directed to decide the same as expeditiously as possible and in any case by

December 31, 2019.

10. In view of the disposal of the petition, the civil application does not survive and the same is disposed of as such.

11. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)