

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1323 OF 2018

Om Prakash Pyarelal Khanduri
And Ors.

...Petitioners

Versus

India Farmers Pvt. Ltd.

...Respondent

.....

WITH

Civil Application No.1865 of 2018

In

Writ Petition NO. 1323 OF 2018

....

Mr. Abhay Thorat i/b. Vinod Kumar Shukla, Advocate for the Petitioners.

Mr. Sanjeev Sawant i/b. Abhishek Deshmukh, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 12th FEBRUARY, 2019

P.C.

1. Heard Mr. Abhay Thorat, learned counsel for the petitioners and Mr. Sanjeev Sawant, learned counsel for the respondent, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as the 'defendants', have challenged the order dated 28.10.2015 passed by the learned Judge, Court Room No.38 of the Court of Small Causes at Mumbai (Bandra Branch) below Exhibit-53 in R.A.E.& R. Suit No.25/2002 as also the order dated 23.10.2017 passed by the Appellate Bench of the Small Causes Court at Mumbai (Bandra Branch) in Revision Application

No.158 of 2015. By these orders, the Courts below rejected the application made by the defendants at Exhibit-53 for directing respondent No.1, hereinafter referred to as the 'plaintiff', to restore the electricity supply to the suit premises, namely, Rooms No.3 and 4, Chawl No.2, India Farmers Compound, Madh-Marve Road, Malad (West), Mumbai – 400 095 and reinstall the electricity meter bearing No.6773889.

3. While rejecting the application, the learned trial Judge observed in paragraph-10 that the Reliance Energy had in its letter dated 18.6.2015 stated that the premises have been demolished and the electricity meters of all the structures in the property were removed and deposited with the Security Guard of the property. As the suit premises are already demolished, the question of restoration of electricity supply and installation of electricity meters does not arise.

4. Even the Appellate Court in paragraph-10 referred to the letter dated 18.6.2015 of Reliance Energy Company and observed that considering said letter and the written statement filed before the Consumer Forum, according to the company, the premises is demolished. Therefore there is no question of restoration of electricity supply to the suit premises.

5. As the Courts below have concurrently found that the suit

premises are demolished, the prayers made in application Exhibit-53 filed by the defendants for restoration of electricity supply and reinstallation of the electricity meters does not arise. Hence, the Petition fails and the same is dismissed. Liberty is reserved to the defendants to adopt appropriate proceedings or to file that application application in the pending proceedings for reconstruction of the suit premises and for restoration of electricity supply thereafter and reinstallation of electricity meters. The same shall be decided in accordance with law. All contentions of the parties on merits are expressly kept open.

6. In view of disposal of Writ Petition, Civil Application No.1865/2018 *inter alia* praying for bringing subsequent events on record as also for issuing directions to the Senior Inspector of Police, Malwani Police Station to investigate as to why the suit premises was damaged by the respondents during pendency of the petition and submit a report to this Court, does not survive and the same is also disposed of. Order accordingly.

(R. G. KETKAR, J.)