

dik-nitin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3105 OF 2019

Sadrudin Dawood Narpali

...Petitioner.

vs

Brihanmumbai Electric Supply & Transport
Undertakings & Anr.

...Respondents.

.....

Mr. P.J.Thorat for the Petitioner

Mr. A. Misra a/w Ms Kavita Anchan i/b M/s M.V.Kini & Co. for the
Respondents.

.....

**CORAM : S. J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**

DATE 25 NOVEMBER, 2019.

P.C. :

1. By the above Writ Petition, the Petitioner seeks a direction against Brihanmumbai Electric Supply and Transport Undertaking / Respondent No.1 and the General Manager, BEST Undertaking/ Respondent No.2 to restore the electric connection in respect of Shop No.12/B, situate on the Ground Floor, Mochi Chawl, A.U.Memon Street, Memonwada, Mandvi, Mumbai – 400 003 (**the said premises**).

2. According to the Petitioner, his mother/Aishabai Dawood (now deceased) was the tenant of the said premises. After her demise, the landlord of the said premises had filed a suit bearing R.A.E. Suit No. 498 of 2015 in the Small Causes Court at Mumbai seeking possession of the shop premises on the ground of bonafide requirement.

3. The learned Advocate appearing for the Petitioner has referred to the Petition and has reiterated that on 14th October, 2019 a decree of eviction has been passed against the Petitioner ; the Petitioner has filed the appeal against the said decree; however on 1st October, 2019 the landlord has managed disconnection of electric supply to the said premises ; the landlord cannot get the electricity supply disconnected and the Respondent No.2 cannot disconnect the electricity supply only because the Petitioner has suffered a decree of eviction.

4. The learned Advocate appearing for the Respondent has pointed out that the Writ Petition is filed on grounds which are incorrect and misleading and the Petitioner has suppressed the true facts from this Court. The Advocate for Respondent No. 1 has pointed out that the original tenant i.e. the mother of the Petitioner passed away on 4th August, 1992. The landlord filed an eviction suit against the Petitioner on the ground of bonafide requirement in the year 2015. The decree in the suit was passed on 14th October, 2019. Prior to the passing of the decree, the Petitioner on 15th May, 2019 applied for transferring the electricity meter in his name. No Objection Certificate is required from the landlord to allow such transfer. However, the Petitioner had furnished an Indemnity Bond in favour of the Respondents dated 27th May, 2019. Paragraph 1 of said Indemnity Bond is reproduced herein :-

“(1) *The premises for which above mentioned requisition is registered for electricity meter is in my possession and occupied by me. There is no legal dispute pending in any Court in respect of the said premises/ building. If the landlord or any other local authority raises objection regarding authorization of said premises, my electric supply will be*

liable for disconnection.”

Thereafter, the landlord of the said shop informed the Respondents that there was a suit pending before the Small Causes Court, Mumbai since the year 2015, against the tenant, seeking eviction of the tenant on the ground of bonafide requirement. It is submitted that since the Petitioner in the Indemnity Bond executed by him, made an incorrect statement that there is no legal disputes pending in any Court in respect of the said shop premises and that if the landlord raises any objection regarding authorization of said premises, his electricity supply will be liable for disconnection, the Respondents have accordingly disconnected the electric supply and the same has no connection whatsoever with the passing of the decree against the Petitioner on 14th October, 2019.

5. In view of the above, it is clear that the Petitioner has filed the above Writ Petition on an incorrect ground that he has suffered disconnection in view of the decree of eviction dated 14th October, 2014 passed by the Small Causes Court, Mumbai and has suppressed from this Court, the true and correct facts for disconnection of electricity as painted out by the Respondent and recorded hereinabove. No interference is therefore called for under Article – 226 of the Constitution of India. The Writ Petition is therefore dismissed.

6. The Advocate for the Petitioner states that the Respondents have called upon the Petitioner to file a fresh Application, which is already filed on 25th October, 2019. The Advocate for the Respondents states that if that be so, the

Respondents will consider the said Application on merits within a period of two weeks from today. Needless to add that such Application shall be decided uninfluenced by any of the observations made in this order.

7. The Writ Petition is disposed of accordingly.

(B. P. COLABAWALLA, J.)

(S. J. KATHAWALLA, J.)