

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

WRIT PETITION NO.586 OF 2021

Santabai Kisanrao Arewar

... Petitioner

Versus

State of Maharashtra and others

... Respondents

Mr. V.N. Patre, Advocate for Petitioner.

Mr. Amit Madiwale, AGP for Respondent No.1.

**CORAM : NITIN JAMDAR &
ANIL S. KILOR, JJ
DATE : 1 FEBRUARY 2021**

P.C.:

The Petitioner has sought a direction to the Respondent-Maharashtra State Electricity Distribution Company to restore the electricity connection which has been disconnected by the order dated 20 November 2019. The impugned order states the Petitioner had sought for new electricity connection, which was refused on the ground that a Suit is pending before the Civil Court.

2. The learned Counsel for the Petitioner states that the Petitioner's brother, who has filed a Suit in respect of the property in question, has objected to grant of electricity connection to the Petitioner and which is one of the reasons why the application has not been considered. The learned Counsel submits that under Section 43 of the Electricity Act, 2003 even an occupier is

permitted to apply for new electricity connection and even though the name of the brother of the Petitioner appears in the property extract on the basis of Petitioner being an occupier, electricity connection ought to have been granted.

3. This is not a case of mere occupier, but there is a dispute regarding occupation of the Petitioner, which is pending in the Civil Court. The Petitioner's brother has filed a Civil Suit for eviction of the Petitioner/partition of the property and has objected to the new connection. Once there is a serious dispute concerning title and occupation/possession in the Civil Court, according to us, it cannot be overridden by issuing a writ of mandamus to the Respondents who have, out of abundant caution, chosen to wait in view of the Suit. Further, any observation by us will reflect on the merits of the Suit pending in the Civil Court.

4. The learned Counsel for the Petitioner submitted that in this Civil Suit, order cannot be issued to the Electricity Distribution Company. However, the Petitioner can always move an application for the Petitioner to apply with a finding as to the physical occupation of the Petitioner. If such a finding/direction is given by the Civil Court where Suit is pending, we do not find any impediment in the way of the Petitioner in view of Section 43 of the Act of 2003.

5. In case any application is made by the Petitioner and if it is found that the Petitioner is without electricity, the same

shall be decided by the Civil Court within a period of six weeks from the said application.

6. The Writ Petition is accordingly disposed of.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Lanjewar

Prashant
Lanjewar

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by Prashant
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