

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11401 OF 2022**

Rajjak Babalal Patel

...Petitioner

Vs.

Maharashtra State Electricity
Distribution Company Ltd.
Thr. Chairman Thro. Chairman/
Managing Director and Ors.

...Respondents

Mr. Kalpesh V. Patil, Advocate for the Petitioner.

Mr. Ajay Pai with Ms. Amita Kamble i/by Kshitija Wadatkar & Ass., Advocate for the respondents.

CORAM : SANDEEP K. SHINDE, J.
TUESDAY, 11TH OCTOBER, 2022.

P.C. :

1. Petitioner/Plaintiff instituted Regular Civil Suit No.107 of 2022 to declare that the demand notice dated 2nd February, 2022 purportedly issued under Section 135 of the Electricity Act, 2003 is illegal and not binding on him. Pending application for temporary restraint order, the learned trial Court vide ad-interim order dated 11th February, 2022 restrained the defendants from disconnecting electricity supply till 17th February, 2022. Whereafter on 14th July, 2022, application (Exhibit 5) seeking temporary injunction was rejected. However, ad-interim order dated 11th February, 2022 was continued upto 23rd July, 2022. Feeling aggrieved by the order refusing

temporary restraint order, plaintiff filed Civil Miscellaneous Appeal on 21st July, 2022. Petitioner's grievance is that on 24th July, 2022, i.e., a day after ad-interim protection, expired highhandedly, electricity supply was disconnected. Therefore, he filed application Exhibit 12, in Civil Miscellaneous Appeal, for seeking restoration of the electricity supply. The learned Judge refused to direct the respondents to restore the supply. However, while passing the order, the learned trial Judge has observed that suit itself was not maintainable. Feeling aggrieved by the said order dated 2nd August, 2022, this Petition is preferred.

2. Heard learned counsel for the Parties.

3. Perused the impugned order. Apparently, impugned order comments on maintainability of the suit, which were unwarranted. In any case, Miscellaneous Civil Appeal No.56 of 2022 is pending for consideration before the District Judge-1, Karad. As on date, there is no electricity supply to the petitioner's establishment. In this view of the matter, I deem it appropriate to direct learned District Judge-1 Karad to decide

Miscellaneous Civil Appeal No.56 of 2022 and Interim Application, if any, filed by the petitioner seeking restoration of the electricity supply on its own merits and without being influenced by the order dated 2nd August, 2022 on or before 11th November, 2022. It is clarified that this Court has not examined disputed issues and all contentions of the Petitioner and Respondents are expressly kept open.

4. Petition is disposed of in aforesaid terms.

(SANDEEP K. SHINDE, J.)