



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5672/2021, CM APPL. 1168/2022, CM APPL. 23306/2022, CM APPL. 24710/2022

Date of Decision: 19.07.2022

IN THE MATTER OF:

MANOJ KUMAR

..... Petitioner

Through: Mr. Ayush Gupta, Advocate.

versus

DELHI JAL BOARD & ANR.

..... Respondents

Through: Ms. Nancy Shah, Advocate for
respondent No.1/DJB.
Mr. Shekhar Sharma, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of present petition filed under Article 226 of the Constitution of India, the petitioner, who claims to be resident and in possession of first floor of property bearing *No. RZ-F/14, Dabri Extension, Near Deepali Chowk, Gali No.2, New Delhi - 110045* (hereinafter, referred to as the '*subject property*'), seeks directions to respondent No.1 to grant fresh water connection in his name without insisting on ownership documents and/or NOC.



2. It has been averred in the petition that while respondent No.2 (now deceased) is the mother of the petitioner, *Mr. Sudhir Kumar* and *Mr. Pankaj Kumar*, i.e. respondent Nos. 2(A) and (B) respectively, are his brothers. The case of the petitioner is that his father *Late Sh. Dharam Pal Singh* had purchased the subject plot and initially raised a *kacha* construction on the ground floor of the subject plot from his own savings. Thereafter, the petitioner from his own savings got the *kacha* construction dismantled and the ground floor and first floors of the subject property constructed in 1999-00. Reportedly, the second and third floors were got constructed in 2014-15. Subsequently, the petitioner got married and started residing at the first floor of the subject property. It is claimed that the petitioner, his mother and his brothers had agreed to keep one floor each of the subject property, however, disputes arose between them.

3. Learned counsel for the petitioner submits that a common water connection exists in the subject property and though the water tank at the first floor is independent, it is installed at the terrace of the subject property. It is argued that on account of disputes between the petitioner, his mother and his brothers, the petitioner has not been able to use the aforesaid water connection. Though the petitioner has sought fresh water connection, the same has been denied for want of ownership documents.

Learned counsel further submits that the petitioner's possession of the first floor of the subject property is not disputed, inasmuch as, his mother *Smt. Veena Rani* had filed a suit for possession being CS DJ/ADJ 848/18, which is pending before the concerned Trial Court. It is submitted that the petitioner had also filed a suit for injunction against *Smt. Veena Rani*, being CS DJ/ADJ/65/2021 (Old No. CS SCJ 309/19), which is pending.



4. Learned counsel for the petitioner has drawn attention of this Court to order dated 16.05.2019 passed by the Trial Court in CS SCJ 309/19, to also submit that the respondent(s)/defendant(s) had undertaken to not disrupt water supply to the first floor of the subject property and that separate statement of defendant No.1/*Smt. Veena Rani* was recorded in this regard.

5. Mr. Shekhar Sharma, learned counsel for respondent No.2, has submitted that in the suit filed by *Smt. Veena Rani*, the petitioner has been restrained from creating any third-party rights with respect to the portion of the subject property in his possession.

6. Ms. Nancy Shah, learned counsel appearing for respondent No.1, submits that although a request for water connection has been received from the petitioner, the same has not been considered for want of ownership documents.

7. A perusal of the paper book would show that the parties were referred to Mediation however, no successful outcome came to be reported. The issue arising before the Court is as to whether in view of the disputes pending between the parties relating to ownership of the subject property and the fact that the petitioner's occupation of the first floor of the subject property is not in dispute, the petitioner's request for fresh water connection can be considered.

8. There is no gainsaying that electricity and water are essential services, of which a person cannot be deprived without cogent, lawful reason. It is well-settled that even if disputes exist as to ownership of the property at which an electricity connection is sought, the concerned authorities cannot deprive the legal occupant thereof by insisting that an NOC be furnished from others who also claim to be owners. Under a similar circumstance,



where a request for supply of electricity connection was declined to a tenant by the authorities, the Supreme Court in Dilip (Dead) through Lrs. v. Satish & Others, **Criminal Appeal No. 810/2022** observed as under:-

“...It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.”

9. It would not be wrong to say that access to water forms part of Article 21 of the Constitution of India, which guarantees every person a right to life. Right to life includes right to live with dignity and life without water is mere sustenance or existence. Hon’ble Chief Justice Surya Kant (as his Lordship then was) can be seen to have endorsed similar view in order dated 22.10.2018 passed by Division Bench of the Himachal Pradesh High Court in Madan Lal v. State of Himachal Pradesh and others reported as **2018 SCC OnLine HP 1495**, where while considering water and electricity supply as essential services, the authorities were directed to release the water and electricity connections to the petitioner.

10. In connection with request for water connection, it is noted that a Co-ordinate Bench of this Court has further held that when a person is a settled occupant of a property and the only dispute is regarding ownership thereof, he cannot be declined such connection at the property unless there is a Court order to the contrary [Refer: Raju v. Delhi Jal Board through its Chief Executive Officer and Anr. reported as **2016 SCC OnLine Del 434**]. In Raju (Supra), it was observed:-

“7. ...learned counsel for respondents has today handed over in



Court copy of E-mail and documents which show that petitioner's relatives have been requesting the Delhi Jal Board not to grant any water connection to the petitioner on the ground that the petitioner is not the owner of the property in question.

8. Learned counsel for respondents states that as there is serious dispute with regard to the ownership of the property, respondents are not inclined to grant a water connection to the petitioner.

9. This Court is of the opinion that if the petitioner's relatives have a grievance with regard to grant of water connection, they are at liberty to seek appropriate relief in the civil suit which is already pending. Also, just because certain complaints have been filed by the relatives and/or friends of the petitioner, the Delhi Jal Board does not get the right to deny a water connection. After all, property disputes have to be adjudicated upon by a civil court and not Delhi Jal Board.

10. Moreover, as water is an essential amenity without which no person can use a property, this Court directs that when a person is in settled possession of the property and the only dispute is with regard to ownership, then water connection should not be denied till there is a Court order to the contrary.

(emphasis added)

11. In view of the settled position of law on the issue, as borne out from the judicial dicta cited hereinabove, and the fact that the present petitioner's possession of the first floor of the subject property is undisputed, the petition is disposed of with a direction to respondent No.1 to decide the petitioner's request seeking fresh water connection in respect of the first floor of the subject property within seven days from today, subject to his completing the requisite codal and commercial formalities.

12. It is clarified that the present order is passed without prejudice to the rights and contentions of the parties and shall not be considered as proof of the petitioner's ownership or possessory rights in respect of the subject



property. It is also clarified that no special equities shall flow in favour of the petitioner because of this order. Miscellaneous applications are disposed of as infructuous.

(MANOJ KUMAR OHRI)
JUDGE

JULY 19, 2022
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