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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 17th January, 2023

+ W.P.(C) 507/2023 and CM APPL. 2014/2023, 2015/2023

ANJALI SINGH

..... Petitioner

Through: Mr. Arvind Kumar Shukla , Mrs. Reetu Sharma, Mr. Amit Kumar, Mr. Vasu Chaudhary, Mr. Ranjan Mishra, Advocates (M-8858974684)

versus

UNION OF INDIA AND OTHERS

..... Respondent

Through: Mr. Rajesh Kumar, Mr. Shaurya Katoch & Ms. Ramneet Kaur, Advocates for UOI (M-8130168708). Ms Sakshi Popli, Advocate for NDMC.

CORAM:**JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed seeking direction to the Respondents to permit the retention of premises bearing no. D-2/56, Shah Jahan Road, New Delhi, 110003 (*hereinafter 'subject premises'*) by the Petitioner and restoration of electricity connection. The Petitioner further seeks directions to the Respondents restraining them from disconnecting basic amenities like gas, water *etc.* to the subject premises. The Petitioner- Mrs. Anjali Singh is the wife of Respondent No.5 - Mr. Vijay Singh who is stated to be a Commandant in BSF. The Petitioner is in the occupation of the subject premises allotted to her husband. The Petitioner has a specially abled child, who is studying in Sanskriti School, Chanakyapuri, New Delhi.

3. The Petitioner and Respondent No.5, the husband, have matrimonial discord. Proceedings are stated to be pending between the parties in the Family Court. Respondent No.5 was transferred out, initially, to Srinagar and thereafter to another location. In the meantime, Respondent No.5 has surrendered the subject premises and Respondent No.2 has disconnected the supply of electricity to the premises. The prayer in the writ petition is seeking direction to the NDMC for restoration of the electricity and the Directorate of Estate to not to take any coercive action for evicting the Petitioner and her family till the exams of the Petitioner's son is over.

4. Ld. Counsel for the NDMC- Respondent No.2 submits that in the present case, the Petitioner is not the consumer and Respondent No.5, who is the consumer, has already made a request for the discontinuation of supply of electricity to the subject premises.

5. Heard. The ground on which the present writ has been filed is that the child of the Petitioner is in XIIth standard and suffering from a disability as also has his board exams slated in March-April, 2023. Thus, the disconnection of electricity or any eviction being directed would result in enormous prejudice to the Petitioner and her son, whose interest has not been borne in mind by Respondent No.5.

6. It is not in dispute that Respondent No.5 has already surrendered the subject premises. However, it is also not disputed that the Petitioner is his wife and they also have a minor son. The entire dispute appears to be an outfall of the marital discord between the Petitioner and Respondent No.5 and the minor child should not be made to suffer on account of it. Reliance can be placed upon the judgment of the Supreme Court in *Neha Tyagi v. Lieutenant Colonel Deepak Tyagi* [Civil Appeal No. 6374/2021, dated 1st

December, 2021] wherein it has been held that:

*“However, at the same time, the respondent-husband cannot be absolved from his liability and responsibility to maintain his son Pranav till he attains the age of majority. **Whatever be the dispute between the husband and the wife, a child should not be made to suffer.** The liability and responsibility of the father to maintain the child continues till the child/son attains the age of majority. It also cannot be disputed that the son Pranav has a right to be maintained as per the status of his father. It is reported that the mother is not earning anything. She is residing at her parental house at Jaipur. Therefore, a reasonable/sufficient amount is required for the maintenance of her son including his education etc. which shall have to be paid by the respondent-husband, irrespective of the decree of dissolution of marriage between the appellant-wife and the respondent-husband. The amount which was being paid pursuant to the order passed by the Army Authorities on 15.11.2012 has also been stopped by the respondent-husband since December, 2019.*

7. In these circumstances, this Court is of the opinion that the authorities ought to take an empathetic view. The Petitioner is agreeable to give an undertaking to vacate the premises by 30th April, 2023. Let an undertaking be filed to this effect before this Court.

8. The electricity is directed to be restored and it is directed that no action shall be taken against the Petitioner for eviction till 30th April, 2023.

9. The Petitioner shall, however, pay the usual license fee as also the up-to-date electricity consumption charges on a monthly basis, even though the subject premises continue to be in the name of Respondent No.5. If there are any past dues of electricity or any other amenities, the same shall also be

cleared by the Petitioner by 31st January, 2023.

10. The undertaking to the above effect be filed before this Court, within one week with advance copies to all counsels. The electricity be restored by NDMC within 24 hours from today.

11. Petition is disposed of in these terms. All pending applications are disposed of.

12. List before the Registrar for compliance and receiving of undertaking on 10th February, 2023.

13. Order *dasti*.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 17, 2023
Rahul/SK

