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

+ W.P.(C) 15311/2024 & CM APPLs. 64273/2024, 64274/2024

PRAVEEN KUMAR

.....Petitioner

Through: Mr. N.K. Shaw, Mr. S.B. Shaw,
Advocates.

versus

BSES YAMUNA POWER LTD. AND ORS.

.....Respondents

Through: Mr. Manish Srivastava, Mr. Moksh
Arora, Mr. Yash Srivastava, Mr.
Santosh Ramdurg, Advocates for
R-1.

Ms. Puja Kalra, Mr. Virendra
Singh, Advocates for MCD.

Mr. Prabhat Kumar, Advocate for
MCD.

Mr. Abhishek Maratha, SPC with
Mr. Nupur Sharma, Advocates for
R-4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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29.10.2024

1. The petitioner has approached this Court under Article 226 of the Constitution for the following reliefs:

“(a) To issue a writ of mandamus or appropriate writs or direction or order or orders, directing the respondents No 1 to 4 to restrain the respondent No 5 from going for construction activities of Property No 16/492 Kalyan Puri Delhi -91 for violation of order dated 25.07.2022;

(b) To issue a writ of mandamus or appropriate writ or direction to the respondent No 1 for restoring the original electric connection in the name of the petitioner to the property No 16/492, Kalyan Puri, Delhi-91 VIDE Connection No New-K 240061197 CRNo1240061144;



(c) To issue a Writ of Mandamus or appropriate Writ or direction to Respondent No 1 to disconnect the connection stands in the name of Ms DEVA RANI VIDE CA NO.153885071 to the Property No 16/492 Kalyan Puri, Delhi -91 being energised on 10.09.2022; And

(d) To pass such other and further order or orders as this Hon'ble court deem fit and proper in the interest of Justice."

2. The petitioner has impleaded the wife of his late brother as respondent No. 5 in the writ petition.

3. Respondent No. 5 had earlier filed a writ petition [W.P.(C) 930/2022] seeking a direction upon respondent No. 1 – BSES Yamuna Power Limited, to install a new electricity connection or permit a name change in the existing electricity connection to her name in property *H. No. 16/492, Kalyan Puri, East Delhi, New Delhi -91* ["the property"].

4. By order dated 25.07.2022, this Court noted that an attempt had been made to serve the writ petitioner herein, which was unsuccessful. Respondent No. 1 was directed to release an electricity connection in the name of respondent No. 5 herein, upon completion of all codal and commercial formalities, without creation of any special equity in favour of respondent No.5 herein, with regard to the title or possession of the premises.

5. The case of the writ petitioner is that he was adopted by one Mr. Ram Sarup, being the brother of his father Mr. Dault Ram. The property in question was allotted in the name of the petitioner's mother Smt. Shyama Devi in the year 1976. A power of attorney in respect of the property, was issued by her in his favour in the year 1998. His mother is stated to have disowned the husband of respondent No. 5.

6. The petitioner and respondent No. 5 herein have both filed civil suits against each other in respect of the property. A suit was first



instituted by respondent No. 5 in the year 1999 in which the petitioner herein was impleaded as a defendant (Civil Suit No. 353/1999, later converted into Suit No. 544/2006). The petitioner also filed a suit being Suit No. 37/2009 against respondent No. 5.

7. The suit filed by respondent No. 5 came to be decreed by a decision of the Trial Court dated 27.01.2011, to the extent that she was granted a permanent injunction, restraining her dispossession from the suit property without due process of law. The defendants therein, including the writ petitioner, were also enjoined from alienating and transferring the property or creating any third-party interest therein. Learned counsel for the petitioner states that the petitioner has not challenged the said judgment.

8. Civil Suit No. 37/2009 was filed by the petitioner herein for declaration of possession and permanent injunction in respect of the property. He claims to have purchased the property from his mother, who was its previous owner. The suit was dismissed by judgment dated 15.09.2010, holding *inter alia* that the petitioner herein had failed to establish that he had obtained vacant possession of the property in the year 1998, or that respondent No. 5 herein trespassed into the property in the year 1999. This decree has also been accepted by the petitioner.

9. The relief sought in the present petition, therefore, seems to arise entirely from the civil disputes between the petitioner and respondent No. 5 in respect of the suit property.

10. In the petition, the petitioner claims that construction activities are ongoing in the suit property in violation of order dated 25.07.2022 and further seeks direction with regard to restoration of the original electricity



connection in his name and disconnection of the electricity connection released in favour of respondent No. 5.

11. The latter two prayers are in the teeth of the order of this Court dated 25.07.2022, which has also not been challenged by the petitioner. The possession of the suit property is in terms of the decree in her favour, and there is no occasion to revisit the order dated 25.07.2022 by which she was granted an electricity connection.

12. In the first prayer, it claims that the construction activities are contrary to the order dated 25.07.2022, but I do not find anything in the said order, which deals with construction on the premises at all. The petitioner's claims have already been adjudicated by the Trial Court in the judgment dated 15.09.2010 and it has been found that he has not been able to establish a right to possession, declaration or injunction as against respondent No. 5.

13. In these facts and circumstances, I am of the view that the petitioner has failed to make out any case for the reliefs sought in this writ petition, which is dismissed alongwith all pending applications.

14. It is made clear that the dismissal of this writ petition will not come in the way of the Municipal Corporation of Delhi taking action in respect of unauthorised construction in the property, if any.

PRATEEK JALAN, J

OCTOBER 29, 2024

'Bhupi'/'