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

\+ W.P.(C) 6438/2021 and CM APPL. 20210/2021

MAHENDER KUMAR GUPTA .....Petitioner

Through: Mr. Rohit Kumar, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL THROUGH ITS CHAIRPERSON & ORS. .....Respondents

Through: Ms. Sakshi Popli, Advocate for R-1.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **09.01.2025**

1. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India for restraining Respondent No. 1/ NDMC from taking coercive steps against the Petitioner with respect to electric connections associated with Shop Nos. 38A and 38B, Khan Market, New Delhi ('shops') due to alleged late payment/non-payment of the bills in the form of disconnecting or interrupting the electrical connections at the behest of Respondents No. 2 and 3. Direction is sought to set aside the impugned electricity bills and restore the electric connections of the said shops in the name of the Petitioner.

2. Petitioner avers that he is the lawful tenant in occupation of Shop Nos. 38A and 38B, Khan Market and has been the registered user of electric connections bearing Nos. K12415 and K67614, uninterruptedly since 1987. The shops were occupied and tenanted by Department of Posts, Government of India prior to 20.02.1971 and the electric connection K12415 was in the name of Superintendent Post Office and on 20.02.1971, the same was

transferred in the name of Dindayal Babu Lal, Partnership Firm of the father of the Petitioner, who became the tenant of the shops. In April, 1971, a power load of 7 KW was sanctioned and given connection No. K67614 along with the existing connection after deposit of requisite charges with the NDMC.

3. It is further averred that in August 1971, Dindayal became sole proprietor of the business after dissolution of the partnership and consequentially the sole tenant of the shops. On 13.02.1987, the electric connections were transferred in the name of the Petitioner, after demise of his father and this is evident from letter dated 13.02.1987, whereafter Petitioner continued as uninterrupted registered user till 2020 paying all dues towards electricity charges for over a period of three decades and even as recently as on 29.10.2020, Petitioner received the electricity bill showing him to be the registered user for the two connections.

4. As the bills were not being sent by NDMC thereafter, Petitioner started making representations for generating the bills so that payments could be made. Petitioner also attempted to settle the dues online on the NDMC portal finding that outstanding dues against his consumer number were reflected as Rs.21/- only and deposited the same. The shops were closed till May, 2021 on account of Pandemic Covid-19 and operations were resumed only in June, 2021 and upon reopening, Petitioner received two electricity bills on 14.06.2021, however, on the names of Respondents No. 2 and 3. Petitioner thus made representations to the NDMC to cancel the change in the name of the registered consumer and restore the electric connections in his name as also to issue bills in the name of the rightful owner.

5. Learned counsel for the Petitioner urges that the electric connections with respect to the shops were in the name of the partnership firm of the father right from 20.02.1971 as the firm was a tenant of the shops. In August, 1971, his father became the sole proprietor of the business and thus the sole tenant and through the period he was paying the bills as the tenant of the premises. On demise of his father, tenancy continued and the electric connections were transferred in the name of the Petitioner who uninterruptedly paid the bills including the last and recent bill received on 29.10.2020 and therefore, it is not known for what reason and under what law, the electric connections for the shops are now shown in the name of Respondents No. 2 and 3. In order to effect any change in the registered user of an electric connection, proof of ownership/occupation in the nature of any one of the documents being certified copies of title deed/registered conveyance deed or General Power of Attorney or possession letter or lease agreement is required and on this basis the connection could never have been transferred in the name of Respondents No. 2 and 3 as they are neither the lawful owners nor tenants of the shops.

6. It is further argued that Petitioner is the sole lawful occupant of the shops and therefore in the absence of any proof of ownership/occupation furnished by Respondents No. 2 and 3, the electric connections have been arbitrarily transferred in their names. Both the Respondents are litigating with the landlord and the matter is *sub judice* before the Trial Court but till date there is no judicial order in their favour. An Agreement to Sell is possibly the basis of claim of Respondents No. 2 and 3 to seek title in the property but it is a settled law that Agreement to Sell cannot convey a valid title after the judgment of the Supreme Court in ***Suraj Lamp and Industries***

Private Limited (2) Through Director v. State of Haryana and Another, (2012) 1 SCC 656. It is further urged that no prior intimation or notice was given to the Petitioner before arbitrarily changing the electric connections overlooking the fact that since 1971 the shops have been under tenancy of Petitioner's family and they are the registered users, a fact evident from the bills generated from 1971 to 2020.

7. Learned counsel for NDMC submits that vide letter dated 09.09.2024, which is placed on record by the Petitioner himself, he was asked to furnish several documents as mentioned therein essentially as a proof of the tenancy, however, Petitioner has failed to furnish the documents. Since the ownership/tenancy of the shops was in question and Respondents No. 2 and 3 represented to NDMC that they were the owners of the shops, the electric connections were transferred in their names and no infirmity can be found with this action.

8. Having heard learned counsels for the Petitioner and NDMC, in my view, the matter requires re-consideration by NDMC. Petitioner has set out a case that the electric connections in question with respect to the shops were earlier in the name of the partnership firm of his father from 1971 and thereafter in the name of the Petitioner since 13.02.1987 on demise of his father and he has continued to pay the electricity bills as tenant of the shops. Heavy reliance is placed on the electricity bill received on 29.10.2020 to urge that as recently as in 2020 also Petitioner was paying the electricity bills as a registered consumer of the electric connections and there was no reason for NDMC to have transferred the connections in the name of Respondents No. 2 and 3 when the tenancy never changed hands and Petitioner continues to be the tenant of the shops. NDMC, on the other hand,

urges that Petitioner has failed to produce documents showing tenancy/proof of occupation of the shops despite being called upon to do so vide letter dated 09.09.2024 and on the basis of some documents furnished by Respondents No. 2 and 3, the electric connections were transferred.

9. Accordingly, without entering into the merits of this case, this writ petition is disposed of directing NDMC to grant personal hearing to the Petitioner and Respondents No. 2 and 3 and take a fresh decision in the matter. Time, date and venue for the hearing shall be intimated to the parties in writing, in advance. Petitioner will furnish the documents requisitioned vide letter dated 09.09.2024 and it would be open to both the parties to produce documents in their favour in support of their respective pleas. A considered decision will be taken by the Competent Authority in accordance with law, within a period of four weeks from the date the hearing concludes. A reasoned and speaking order shall be passed by NDMC which shall be communicated to the Petitioner and Respondents No. 2 and 3 within a period of one week from the date of the decision and the parties shall be at liberty to take recourse to legal remedies, in case of any surviving grievance.

10. Pending application stands disposed of.

JYOTI SINGH, J

JANUARY 09, 2025/shivam