

(2022) 10 DEL CK 0138

In the Delhi High Court

Case No : Civil Writ Petition No. 6501 Of 2022

Anita Sharma

APPELLANT

Vs

State (Nct Of Delhi) & Ors.

RESPONDENT

Date of Decision : 20-10-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 10 DEL CK 0138

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Shahid Ali, Alam Musheer, Rachita Garg, Rohit Sharma, Ashok Kumar, Rishabh Raj Jain

Final Decision : Disposed Of

Judgement

Manoj Kumar Ohri, J

1. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioner, who claims to be an occupant of right side flat on third/top floor of premises bearing No. 27, Gali No. 2, Sunder Park, Shastri Nagar, Delhi (hereinafter, referred to as the 'subject premises'), seeks direction to respondent No.3/BSES to install a fresh electricity meter at the subject premises without insisting for a No Objection Certificate from respondent No.2.

2. Learned counsel for the petitioner submits that the petitioner is a tenant in the subject premises and disputes are pending between the parties i.e., the petitioner and respondent No.2/landlord. It is submitted that on 13.09.2020, respondent No.3 disconnected the electricity supply of the subject premises at the behest of respondent No.2.

3. Mr.Rohit Sharma, learned counsel for respondent No.2 submits that respondent No.2/Smt. Meena Kumari Gupta is the power of attorney holder of Sh. Suresh Kumar Gupta and Sh. Dinesh Kumar Gupta. He, on instructions, submits that the owners undertake to seek a fresh electricity connection at the

subject premises either in the name of Sh. Dinesh Kumar Gupta or respondent No.2. Without prejudice to their rights and contentions, learned counsel, on instructions, submits that electricity would be supplied at the subject premises through the fresh connection.

4. Learned counsel for respondent No.3, on instructions, submits that if directed, a fresh electricity connection would be installed at the subject premises, provided the petitioner/respondent No.2/Sh. Dinesh Kumar Gupta clear the pending electricity dues, if any, in respect of earlier connection.

5. At this stage, learned counsel for the petitioner has disputed the aforementioned submission made on behalf of respondent No.2 apropos the ownership of Sh. Suresh Kumar Gupta and Sh. Dinesh Kumar Gupta.

6. This Court deems it apposite to refer to the observations made by the Supreme Court in *Dilip (Dead) through Lrs. v. Satish & Others*, Criminal Appeal No. 810/2022, wherein it has been held 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.

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The impugned order cannot be sustained and the same is set aside.

The appeal is, accordingly, allowed.

Pending applications, if any, shall stand disposed of.

It is however made clear that electricity supply granted, shall not be discontinued, subject to compliance by the Respondents of the terms and conditions of supply of electricity by the electricity department including payment of charges for the same."

7. Keeping in view the aforementioned observations of the Supreme Court as well as without entering into the controversy with respect to title/ownership of the subject premises, the present writ petition is disposed of in the following terms:

(i) Sh. Dinesh Kumar Gupta or respondent No.2 on his behalf shall make an application for grant of a fresh electricity connection within seven days from today.

(ii) Respondent No.3 shall process the said application for installation of a fresh electricity connection forthwith without insisting on a NoC from co-owners.

(iii) Sh. Dinesh Kumar Gupta or respondent No.2 shall comply with all the codal and commercial requirements of respondent No.3/BSES.

(iv) Sh. Dinesh Kumar Gupta or respondent No.2 shall also deposit a sum of Rs.10,000/- with respondent No.3/BSES in addition to the regular security deposit that they are required to make under the rules or regulations.

(v) Petitioner shall pay the consumption charges in accordance with the bills raised by respondent No.3/BSES from time to time/till the time she occupies the subject premises.

(vi) Sh. Dinesh Kumar Gupta or respondent No.2 shall not seek adjustment of the security deposit. However, on the petitioner vacating the premises or being evicted and surrender of the electricity meter, they shall be entitled to refund of the security deposit subject to adjustment of any dues of the respondent.

(vii) Respondent No.3/BSES shall be entitled to disconnect the electricity supply in case petitioner fails to pay the electricity charges.

(viii) In case, Sh. Dinesh Kumar Gupta or respondent No.2 fail to take the requisite steps within one week from today, the petitioner shall be at liberty to seek electricity connection in her name and in that eventuality respondent No.3 shall not insist for a No Objection Certificate from any of the owners.

8. It is clarified that this order is without prejudice to the rights and contentions of the parties and shall not be construed as recognising rights of any nature whatsoever, including either the ownership or possessory rights of the petitioner with respect to the subject premises. It is also clarified that no special equities shall flow in favor of the petitioner on account of this order.

9. The writ petition is disposed of in the above terms. Pending application, if any, is disposed of as infructuous.