
(2004) 06 MAD CK 0071
In the Madras High Court
Case No : Writ Petition No. 13379 of 2004

G. Asokan

APPELLANT

Vs

The Neyveli Lignite Corporation

RESPONDENT

Date of Decision : 02-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2004 Mad 517

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : Mohan, for T. Palanivel, for the Appellant; Nithyanandam, for N.A.K. Sharma, for the Respondent

Judgement

P.K. Misra, J.—The petitioner has filed this writ petition seeking for a writ of mandamus to direct the respondents to restore power supply to the petitioner's shop bearing No.4, Daily Market, Block 19, Neyveli.

2. Heard the learned counsel appearing for the parties. Since the question raised in the miscellaneous petition is the same as in the writ petition, the writ petition itself is taken up for disposal.

3. Against the petitioner, an order of eviction is said to have been passed under Public Premises (Eviction of Unauthorized Occupants) Act, 1971. It is said that the petitioner has filed an appeal, which is pending before the District Judge. The main grievance of the petitioner in the present writ petition is to the effect that even though the petitioner is continuing in possession, the respondents have disconnected the supply of electricity to the premises in question.

4. A counter affidavit has been filed on behalf of the respondents. The main stand taken in the counter is to the effect that since the petitioner has filed an appeal before the District Judge, the present writ petition is not maintainable. It is further contended that disconnection was made in the month of December 2003. But the present writ petition has been filed belatedly. The other contention

raised in the counter is to the effect that since the petitioner has violated the conditions of license, the action of the respondent is justified.

5. The present writ petition is essentially related to the question as to whether supply of electricity should be restored. It is no doubt true that an order of eviction has been passed against the petitioner. However, such an order of eviction is subject to the appeal which is pending before the District Judge. So long as the petitioner is not evicted in accordance with law, the petitioner is entitled to enjoy the basic amenities which were available before the order of eviction was passed. Electricity supply can be given subject to the condition that necessary payment regarding the supply of electricity and the other charges are paid by the petitioner.

6. The contention of the learned counsel for the respondent that the writ petition is hit by the principle of laches is not acceptable. There is no specific period of limitation for filing a writ petition and a person can approach the High Court under Article 226 of the Constitution of India, without any undue delay. However, the question whether there is delay or not would largely depend upon the prejudice which would be caused to the other side if the writ petition is not filed at an earlier date. In the present case, the matter is between the petitioner and the respondent and no prejudice would be caused to the respondent if the writ petition would be entertained and direction would be given. Therefore, the second objection also cannot be accepted. The third objection of the respondent is to the effect that since the petitioner has violated the condition, he is not entitled to the relief now claimed. It is not necessary in the present writ petition to consider as to whether there has been violation of the condition of the license and as to whether the order of eviction is justified or not and those matters are required to be decided by the appellate authority. The only question which has to be considered is whether the basic amenities which were available to the petitioner before the order of eviction was passed, could be unilaterally taken away by the respondent.

7. After considering various aspects of the matter, I am of the view that so long as the petitioner is in possession, and he is not evicted in accordance with law, he cannot be deprived of the basic amenities by such unilateral action. Accordingly, there will be a direction to the respondent to restore supply of electricity. Arrears if any, would be cleared by the petitioner within a period of two weeks from the date of receipt of the order and the restoration of electricity shall be effected within three weeks thereafter. It goes without saying that the current dues shall be paid by the petitioner as and when necessary. It is further made clear that this order is relating to restoration of supply of electricity and should not be construed as expressing any opinion in the case pending before the District Judge. The said case including the petition for stay relating to dispossession should be considered by the District Judge on its own merits.

8. The writ petition is disposed of on the above terms. No costs. Consequently, W.P.M.P.No.15666 of 2004 is closed.