

(2018) 01 RAJ CK 0005
In the Rajasthan High Court
Case No : 647 of 2018

Jagdish Narayan

APPELLANT

Vs

Jaipur Vidhyut Vitran Nigam Limited & Anr.

RESPONDENT

Date of Decision : 24-01-2018

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Code of Civil Procedure, 1908, <a href=3859 — Order 1Rule
10>Order 1Rule 10 -
Electr

Citation : (2018) 01 RAJ CK 0005

Hon'ble Judges : Alok Sharma

Bench : Single Bench

Advocate : Ram Rakh Sharma, Arun Sharma, M.M. Ranjan, Rajat Ranjan

Final Decision : Dismissed

Judgement

1. This petition has been filed with the prayer that agricultural electricity connection of the petitioner be reconnected and he be compensated for unlawful disconnection thereof. Further prayer of the petitioner is that the respondent-JVVNL be directed to install the meter on the agricultural connection to the petitioner's borewell and issue a bill according to electricity consumption instead of charging a flat rate therefore from the petitioner.

2. An application for impleadment has been filed at the instance of one Radhey Shyam S/o Ramkishore. Mr. M.M. Ranjan, Sr. Counsel with Mr.

Rajat Ranjan appearing for the applicant stated that the intent of the petitioner through this petition is to avail of an electricity connection from a transformer earlier unlawfully installed in Khasra No. 150 village Khinwas, Tehsil

Jamwa Ramgarh, District Jaipur, which is in the khatedari of the applicant. On a complaint of the applicant, the said transformer has been removed on 12.12.2017. Mr. M.M. Ranjan submitted that in the event the prayer in the writ petition for reconnection of the electricity connection were to be allowed, it could be constructed as the right of the petitioner to electricity connection from a transformer situate in the applicant's khatedari land. Mr. Ranjan further submitted that in a suit for permanent injunction filed by the petitioner before the Civil Court on the very issue agitated in the petition, the applicant on an application under Order 1 Rule 10 CPC was impleaded as a party. The dispute in the civil suit as also in this petition being near identical, the applicant be accordingly impleaded as a party in this petition. Hence the applicant in the facts of the case is at-least a proper, if not, a necessary party in the petition and therefore, be impleaded in the petition.

3. The application under Order 1 Rule 10 CPC is allowed for the reasons mentioned therein and applicant is impleaded as party - respondent in this writ petition. Formal amended cause title dispensed with.

4. Reply to the petition has been filed by JVVNL. It has been submitted that the petitioner was indeed granted electricity connection for agricultural purposes on Khasra No. 148 village Khinwas, but subsequently, it was found that the said electricity connection was being misused in khasra no.

149. Such unauthorized use / drawing of electricity is an offence under Section 126 of the Electricity Act, 2003 (Act of 2003). It has been submitted that the petitioner at the relevant time when consuming electricity on the connection in khasra no. 148, was being charged on the basis of the consumption recorded in the meter installed and not on a flat rate. It has been submitted that all allegations of wrong doing including those alleged against the respondent no. 2 - A.En. of JVVNL are false and incorrect.

5. Having heard the counsel for the parties, it is apparent that the prayer in this petition is with regard to right of the petitioner to electricity connection and its reconnection to a borewell, which the petitioner submits is in khasra no. 148, but which the JVVNL states is in khasra no. 149, to which the petitioner was never given a connection and such use would be an offence under Section 126 of the Act of 2003.

6. This dispute is essentially one of the fact, which this Court cannot address in

exercise of its jurisdiction under Article 226 of the Constitution of India. Besides, it is an admitted fact that the transformer from which the electricity was being supplied to the petitioner in Khasra No. 148 was located in Khasra No. 150 in the khatedari of Radhey Shyam and has since been removed on Radhey Shyam's valid objections. It goes without saying the JVVNL could not have used the said khatedari land of Radhey Shyam over which it had no right for installation of its transformer for electric supply to the petitioner or anyone else for that matter. That issue however appears to have been rectified as submitted by Mr. Arun Sharma stating that the transformer has since been removed from Khasra No. 150.

7. In the facts of the case and for the reasons recorded above, I am of the considered view that the petitioner has failed to make out a legal right for the protection of which he can invoke this Court's equitable extraordinary jurisdiction.

8. The writ petition is accordingly dismissed. However, the petitioner shall be free to take his lawful remedies for seeking an electricity connection to the borewell / well in his agricultural fields as available in law.