
(2011) 10 DEL CK 0009
In the Delhi High Court
Case No : Writ Petition (C) 7177 of 2011

Nisha Jindal

APPELLANT

Vs

Jheri Devi and Another

RESPONDENT

Date of Decision : 10-10-2011

Acts Referred:

Citation : (2011) 9 AD 390

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Gajendra Giri, for the Appellant;

Judgement

Hima Kohli, J. (Oral)

1. Amended memo of parties has been filed pursuant to which appearance is entered on behalf of Respondent No. 1/landlady.

2. The present petition is filed by the Petitioner praying inter alia for directions to the Respondent/BSES to install a new electricity connection in the tenanted shop bearing No. 9, Plot No. 39, Bhim Enclave, Col. Bhatia Road, Vikaspuri, New Delhi. Counsel for the Petitioner states that the Petitioner is a tenant of Respondent No. 1 in respect of the subject shop and had been paying the rent and electricity charges to Respondent No. 1, without any default, till September 2010, whereafter the rent was being deposited by her in the Court since Respondent No. 1 refused to accept the rent. It is further stated that Respondent No. 1 illegally disconnected the electricity supply of the Petitioner on 14.09.2010, and since then she has been facing a lot of hardship. It is further stated that an order dated 01.06.2011 has been passed by the learned Additional Rent Controller (ARC), disposing of an application filed by the Petitioner for restoration of electricity connection, whereunder Respondent No. 1 was directed to restore the electricity in the tenanted premises within 15 days from the date of passing of the order or in the alternative, to give an NOC to the Petitioner for obtaining a new electricity connection but Respondent No. 1 has failed to comply with both

directions. As a result, the present petition is filed by the Petitioner.

3. Counsel for Respondent No. 1 disputes all the allegations levelled by the Petitioner in the present petition and asserts that the Petitioner is a gross defaulter, not only in respect of payment of rent, but also in respect of the payment towards the electricity dues payable by her in terms of the consumption recorded in a sub-meter installed at her shop. He states that as on date, the Petitioner owes a sum of approximately `15,000/-, to Respondent No. 1 towards electricity dues, which Respondent No. 1 has had to deposit with Respondent No. 2/BSES on her own. He further states that aggrieved by the order dated

01.06.2011 passed by the learned ARC, Respondent No. 1 has preferred an appeal which is listed before the Appellate Court on 18.10.2011. He further states that the Petitioner is avoiding receiving the summons in the aforesaid appeal, which is delaying the matter and it is for the aforesaid reasons that Respondent No. 1 has not complied with the order dated 01.06.2011.

4. Counsel for the Petitioner states that on behalf of the Petitioner, he is willing to accept the summons in the aforesaid appeal and he shall ensure that the Petitioner is represented before the learned District Judge (West) on the next date of hearing, i.e., on 18.10.2011. He also expresses the willingness of the Petitioner to pay a sum of `15,000/- to Respondent No. 1, without prejudice to the rights and contentions of the Petitioner in the litigation between her and Respondent No. 1.

5. As far as the present petition is concerned, counsel for Respondent No. 1 states that any orders that are passed in the present petition may be without prejudice to the rights and contentions of Respondent No. 1 in the aforesaid appeal as also in the eviction proceedings initiated by her against the Petitioner.

6. Having regard to the limited scope of the present petition, wherein the Petitioner seeks a new electricity connection in respect of the subject shop, the same is disposed of on the following terms and conditions:

i. As counsel for the Petitioner has agreed to pay a sum of `15,000/- to Respondent No. 1 towards the outstanding electricity dues without prejudice to the rights and contentions of the Petitioner in the litigation pending between the parties, it is directed that the aforesaid sum of `15,000/- shall be handed over by the Petitioner to Respondent No. 1 within one week.

ii. Upon receiving the aforesaid amount of `15,000/-, Respondent No. 1 shall issue a receipt in that regard which shall also be without prejudice to the rights and contentions of Respondent No. 1 in the pending litigation.

iii. The Petitioner shall file an application for grant of fresh electricity connection in respect of the shop under her occupation, with Respondent No. 2 for installation of an electricity connection in her name, alongwith all relevant documents. The said application shall be entertained by Respondent No. 2/BSES without insisting on a No Objection Certificate from Respondent No. 1.

iv. In addition to other charges, the Petitioner shall also deposit three months' security deposit based on the past consumption pattern. The said amount will be calculated by Respondent No. 2 and intimated to the Petitioner within one week from the date of receiving the application from the Petitioner. Respondent No. 2 shall be at liberty to ask for an enhanced security deposit depending upon future consumption pattern in respect of the said meter.

v. The Petitioner shall pay monthly charges of electricity consumption to Respondent No. 2 regularly. The security charges shall not be adjusted against payment of current dues. The security amount shall be refunded to the Petitioner without interest as and when the Petitioner is evicted or vacates the premises, subject matter of the writ petition, subject to adjustment, if any, on account of arrears.

vi. It is made clear that in case, the Petitioner fails to pay current dues, Respondent No. 2/BSES shall be entitled to disconnect the electricity connection after one billing cycle. It is further made clear that Respondent No. 1 shall not be liable or responsible to pay the current electricity charges or any other demand in respect of the new meter, which shall be installed in the premises in the name of the Petitioner.

7. The above directions are passed without prejudice to the rights and contentions of the Petitioner and Respondent No. 1 in the pending litigation and it is clarified that installation of the new electricity connection in the shop occupied by the Petitioner, shall not create any special equities in her favour in any other litigation relating to the subject premises.

8. Dasti to the parties.