
(2023) 01 DEL CK 0054

In the Delhi High Court

Case No : Civil Writ Petition No. 17470 Of 2022, Civil Miscellaneous Application No. 55749 Of 2022

Real Anchors Projects LLP & Ors

APPELLANT

Vs

NCT Of Delhi & Ors.

RESPONDENT

Date of Decision : 11-01-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2023) 01 DEL CK 0054

Hon'ble Judges : Manoj Kumar Ohri, J

Bench : Single Bench

Advocate : Rachita Garg, Manish Kumar Srivastava, Kuldeep Kaur

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, petitioner Nos. 2 and 3, who claim themselves to be tenants/occupants of Aqua Green Farm House situated at Khasra No. 104/1 & 104/2 Min, Church Road, Vasant Kunj, Mehrauli, New Delhi – 110070 (hereinafter, referred to as the 'subject premises'), seek directions to respondent No. 2/BSES-RPL to install a fresh electricity meter at the subject premises without insisting for a No Objection Certificate from respondent No. 3 (landlord).

2. Learned counsel appearing for the petitioners submits that petitioner Nos. 2 and 3 are the partners at petitioner No. 1-firm. It is submitted that respondent No. 3 is the owner of the subject premises and had initially granted lease hold rights to the petitioners upon the said property for residential purpose for a period of 03 years vide 'Rent Agreement' dated 10.07.2018, which was later extended upto 27.05.2021. Later, disputes arose between the parties and respondent No. 3 filed a civil suit being CS 203/2022 against the petitioners, inter alia, seeking possession of the subject premises, which is pending

adjudication before the concerned Court.

Learned counsel submits that without affording any opportunity, respondent No. 2 disconnected the electricity supply of the meter installed in the name of respondent No. 3 at the subject premises on 16.12.2022. Subsequent thereto, the petitioners requested respondent No. 2 to restore the electricity supply, which request was not acceded to for want of No Objection Certificate from respondent No. 3. It is also submitted that there are no outstanding dues with respect to electricity connection installed at the subject premises.

3. Learned counsel for respondent No. 3 has alleged that the petitioners are accused of theft of electricity in relation to the meter installed at the subject premises.

4. Learned counsel for respondent No. 2 submits that petitioners request was not acceded to in view of the objections raised by respondent No. 3. He, on instructions, submits that though earlier a case for theft was registered by the answering respondent against the electricity meter installed at the subject premises, however, on inquiry no such involvement was found and the case was closed. He, on instructions, confirms that there no pending dues with respect to electricity connection installed at the subject premises, and subject to petitioners filing fresh application, the answering respondent has no objection to the grant of the electricity connection. It is submitted that the grant of the electricity connection shall also be subject to payment of additional security amount over and above the regular security amount.

5. There is no gainsaying that electricity is an essential service, of which a person cannot be deprived without cogent, lawful reason. It is well-settled that even if disputes exist as to ownership of the property at which an electricity connection is sought, the concerned authorities cannot deprive the legal occupant thereof by insisting that an NOC be furnished from others who also claim to be owners. Under a similar circumstance, where a request for supply of electricity connection was declined to a tenant by the authorities, the Supreme Court in *Dilip (Dead) through Lrs. v. Satish & Others*, Criminal Appeal No. 810/2022 observed 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."

6. Keeping in view the aforementioned observations of the Supreme Court, the present writ petition is disposed of in the following terms:

(i) Petitioners shall make an application for grant of a fresh electricity connection in their own name.

(ii) Respondent No. 2 shall process the petitioners' application for providing fresh electricity connection forthwith without insisting on NOC from respondent No. 3 within two weeks from the date of filing of the application.

(iii) Petitioners shall comply with all the codal and commercial requirements of respondent No. 2.

(iv) Petitioners shall deposit additional sum with respondent No. 2 as may be required in addition to the regular security that they are required to under the rules or regulations.

(v) Petitioners shall pay the consumption charges in accordance with the bills raised by respondent No. 2 from time to time/till the time they occupy the subject premises.

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

(vii) Respondent No. 2 shall be entitled to disconnect the electricity supply at the subject premises in case petitioners fail to pay the electricity charges.

(viii) Application of the petitioners shall be processed and electricity connection shall be installed within two working days of the petitioners completing all the formalities.

7. It is clarified that this order is without prejudice to the rights and contentions of the parties and shall not be construed as recognizing rights of any nature whatsoever, including either the tenancy or possessory rights of the petitioners with respect to the subject premises. The observations made hereinabove are prima facie and without prejudice to the dispute pending between the petitioners and respondent No. 3. It is clarified that no special equities shall flow in favour of the petitioners on account of this order.

8. The writ petition is disposed of in the above terms. Pending application is disposed of having become infructuous.

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