

(2016) 10 KL CK 0015
In the High Court Of Kerala
Case No : W.A. No. 1556 of 2016

The Kerala Water Authority

APPELLANT

Vs

V.K. Sankarankutty

RESPONDENT

Date of Decision : 27-10-2016

Acts Referred:

Kerala Water Authority (Water Supply) Regulations, 1991 — Regulation 7(d),
Regulation 7(g)
Kerala Water Supply and Sewerages Act, 1986 — Section 38A

Citation : (2017) 2 KerLJ 324 : (2017) 1 KLT 745

Hon'ble Judges : Mr. Mohan M. Shantanagoudar, CJ. and Mr. Sathish Ninan, J.

Bench : Division Bench

Advocate : Sri. George Mathew, SC, for the Appellants; Sri. Jacob Mathew Manalil, Advocate, for the Respondent Nos. 1 and 2; Sri. V. Tekchand, Sr. Government Pleader, for the Respondent No. 3

Final Decision : Allowed

Judgement

Mohan M. Shantanagoudar, C.J.—;This writ appeal is filed by respondents 2 and 3 in W.P.(C) No.16110 of 2015 against the judgment dated 28.3.2016 passed therein.

By the impugned judgment, the learned Single Judge directed the appellants to consider the application filed by the writ petitioners/respondents 1 and 2 herein in terms of Regulation 7(d) of the Kerala Water Authority (Water Supply) Regulations, 1991 (hereinafter called as "the Regulations" for short).

Respondents 1 and 2 approached this Court with the aforesaid writ petition seeking a direction to the Kerala Water Authority (for short, "KWA") to provide water connection to them and to declare that they have a right to individual domestic connection.

The learned Single Judge, in the impugned judgment, held that the writ petitioners could not be directed to apply for the entire apartment complex in

terms of Regulation 7(g) as they were seeking only separate connections to individual apartments owned by each one of them and not a common connection to the apartment complex. Based on this observation, certain other directions were issued in favour of the writ petitioners.

2. It is not in dispute that respondents 1 and 2 are the owners of two flats in the apartment complex, which consists of 64 apartments. They also need individual water connection directly from the appellants. They do not want to share water, which is supplied common to the apartment complex by the KWA, along with others and in that regard, they approached this Court after having failed in their attempt to get individual connections from the KWA.

3. We find that the learned Single Judge has ignored the provisions of Section 38A of the Kerala Water Supply and Sewerage Act, 1986 (for short, "Act 1986") and the purport behind Regulation 7(g) read with Appendix - C to the Regulations. On a cohesive reading of the aforementioned provisions, it is amply clear that it is not open for the respective apartment owners in the apartment complex to make application for getting water connection individually. The individual apartment owners cannot be equated to the owner of the independent houses under the provisions of the Act, 1986 as well as the Regulations framed thereunder for this purpose. Regulation 7(d) may be applicable in the case of one or several houses situated in the same premises but bearing separate house numbers and that cannot be applicable to an apartment complex. Considering the facts and circumstances involved in the case on hand, Regulation 7(g) is applicable herein and the said Regulation also needs to be considered along with Appendix - C.

These provisions make it clear that the authorised representative of the apartment complex will have to make application seeking water connection to the apartment complex.

4. The question involved in this case is fully covered by two judgments of the Division Bench of this Court in W.A. No.202 of 2016 and W.A. No.205 of 2016, which were disposed of on 31.3.2016, wherein, this Court, after setting aside the similar judgments passed by the learned Single Judge, directed the writ petitioners to approach the KWA and seek water connection in terms of Regulation 7(g) of the Regulations.

5. We do not find any ground to disagree with the reasons assigned in the conclusion arrived at in W.A. Nos.202 of 2016 and 205 of 2016. Hence, the impugned judgment is liable to be set aside and we do so. Consequently, W.P.(C) No.16110 of 2015 stands dismissed. It is open for the writ petitioners to approach the KWA as per Regulation 7(g) of the Regulations for appropriate reliefs. If such an application is received, the same shall be considered by the KWA, as early as possible, but not later than the outer limit of one month from the receipt of such application.

6. The writ appeal is allowed accordingly.