

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13217/2019**

Date of Decision: 14.11.2022

IN THE MATTER OF:

SUDHARSHAN KUMAR SHARMA AND ANR. Petitioners
Through: Mr.C.M.Grover and Ms.Payal,
Advocates with the petitioners in
person.

versus

STATE OF NCT OF DELHI AND ORS. Respondents
Through: Mr.Rajesh Agnihotri, Advocate
for respondent No.1.
Mr.Sanjeet Kumar Trivedi and
Mr.Abhishek Chakraborty,
Advocates for respondent No.2/
BSES-YPL.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

MANOJ KUMAR OHRI, J. (ORAL)

1. By way of the present writ petition filed under Article 226 of the Constitution of India, the petitioners, who claim to be senior citizens and residents of the ground floor of *House No. 527/3-A/1-B/2, Gali No. 2, Block No. 6, Vishwas Nagar, Shahdara, Delhi - 110032* (hereinafter, referred to as the '*subject premises*'), seek direction to respondent No.2/BSES-YPL to install a fresh electricity meter at the subject premises without insisting for No Objection Certificate from respondent Nos.3 to 5.

2. Mr.C.M.Grover, learned counsel for the petitioners submits that petitioner No.1 and respondent Nos.3 to 5 are real brothers and a civil suit being CS 342/2019 titled as Shri Sudharshan Kumar Sharma v. Smt. Madhu Bala & Ors. for partition and permanent injunction is pending between the parties. It is submitted while electricity connection was granted to two of the respondents without insisting on No Objection Certificate from the petitioners, however when the petitioners requested for a new electricity connection, the same was denied for want of No Objection Certificate from respondent Nos.3 to 5. Presently, the electricity supply to the portion occupied by petitioners in the subject premises is received as per *inter se* arrangement, however the same has led to multiple disputes between the parties.

3. Learned counsel for the petitioners also submits that petitioners are ready and willing to apply afresh for grant of new electricity connection. He, on instructions, submits that the petitioners undertake to comply with all the codal and commercial formalities of respondent No.2 and there are no outstanding dues with respect to electricity connection installed at the subject premises.

4. It is borne out from the record that though respondent Nos.3 to 5 have been served, however none is present on their behalf.

5. Mr.Sanjeet Kumar Trivedi, learned counsel for respondent No.2 submits that petitioners request for a new electricity connection was not acceded to in view of the objections raised by respondent Nos.3 to 5. He, on instructions, confirms that there no pending dues with respect to electricity connection installed at the subject premises.

6. 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.”

7. At this stage, learned counsel for respondent No.2 submits that an application for fresh electricity connection in petitioners' name, as and when made by them, would be considered in accordance with law without insisting on NOC from respondent Nos.3 to 5.

8. In view the above, 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 Nos.3 to 5 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 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.

(v) 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.

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

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

9. It is clarified that this order shall not be construed as recognizing any possessory rights of the petitioners with regard to the subject premises and be without prejudice to the rights and contentions of the parties in their pending disputes. No special equities shall flow in favour of the petitioners because of this order.

10. The concerned SHO, Police Station, Farsh Bazar is directed to ensure that necessary assistance is provided, if required, to comply with the order.

11. The writ petition is disposed of in the above terms. Pending application, if any, is disposed of as infructuous.

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER 14, 2022/v

