



Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
SUO MOTU WRIT PETITION NO. 2 OF 2023  
WITH  
COURT RECEIVER'S REPORT NO. 23 OF 2023  
IN  
SUO MOTU WRIT PETITION NO. 2 OF 2023

High Court On Its Own Motion

...Petitioner

*Versus*

State of Maharashtra Through Principal Secretary & Ors ...Respondents

**Mr Sharan Jagtiani, Senior Advocate, as Amicus Curiae, with Vishal Narichania, Sumeet Nankani, Saurabhi Agrawal & Akshay Doctor.**

**Mr PP Kakade, GP, with MP Thakur, AGP, for Respondent No. 1-State.**

**Mr Tejas Dande, with Bharat Gadhavi, Trushna Shah, Pratik Sabrad, Vikrant Khare, Seema Patil & Mansi Dande, for Respondent No. 2-NMMC.**

**Mr Rohit Sakhdeo, for Respondent No. 3-CIDCO.**

**Mr Akshay Jadhav, for Respondent Nos. 4 to 6.**

**Mr Shivaji Nirmale, for Respondent No. 7-Developer.**

**Ms Deepa Chavan, with Ushajee Peri, Vikas More & Devangi Jagtap, i/b Lexcorp Partners, for Respondent No. 8-MSEDCL.**

**Mr RD Soni, i/b Jayesh Gawde, for Respondent Nos. 9 to 31.**

**Mr SK Dhekale, Court Receiver, present.**

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**CORAM G.S. Patel &  
Kamal Khata, JJ.**  
**DATED: 30th November 2023**

**PC:-**

1. As previous orders show, this Sou Motu Writ Petition has been instituted because we discern an egregious situation on a particular plot of land within the command area of the Navi Mumbai Municipal Corporation (“NMMC”). The entire structure is without any permission whatsoever. Flats have been created and are occupied by various individuals who have been joined and who are represented before us. We found that the structure has water supply although even this is illicit. We also found that there is power supply to the structure. It is on account of this that we required the addition of Maharashtra State Electricity Distribution Co Ltd (“MSEDCL”) as a party Respondent to the Petition.

2. On the last occasion we outlined what we perceived to be a problem not just in this case but a recurrent issue in almost every single situation, viz., that electricity bills are routinely produced before authorities as if to suggest that because there is power supply therefore the structure not only exists but is legal, legitimate and possibly authorised. Even without obtaining fuller instructions, Ms Chavan was quick to point out that this can never be the case. The supply of electricity has nothing at all to do with the legitimacy or legality of the construction. It is merely a service (or perhaps an essential service) that is provided because it is the statutory obligation of licensees of various descriptions under the Electricity Act, 2003 to provide power. She accepted that there is a distinct

possibility of power supply bills being misused or of people attempting to gain undue advantage because such bills are routinely issued for actual power consumption.

3. After instructions, Ms Chavan has prepared a note. This proposes the introduction bilingually of an important caveat or disclaimer both in the application forms for new connections and in the bills issued for each consumer. The English version in the new connection application form would read, Ms Chavan submits, thus:

“This application for power supply when processed and considered by the distribution licensee cannot be treated or utilised as proof that the premises for which the power supply is sought is an authorised structure nor would such consideration of an application by the distribution licensee amount to proof of ownership of premises.”

4. Correspondingly in the bills that are issued the proposal is to include the following statement:

This bill for power supply cannot be treated or utilised as proof that the premises for which the power supply has been granted is an authorised structure nor would the issuance of the bill amount to proof of ownership of the premises.

5. The corresponding translations in Marathi are also proposed.

6. We accept both these as being sufficient. It is our understanding that these statements disclaimers or clarifications are not newly introduced restrictions or conditions. They only make explicit that which was already a part of the law on the subject for

the mere application for an electricity connection made to a distribution licensee or the issuance of a bill for power consumption by the distribution licensee has nothing at all to do with planning permissions for the construction and erection of a structure. An electricity connection application and a bill cannot be used to prove ownership because that is not even the demand of the distribution licensee. All that the licensee requires to know is the address to which power is to be supplied and in whose name it is to be billed. It is impossible to expect a distribution licensee to act beyond the remit of the statute to assess questions of title to the property in question let alone assess questions of whether the structure or structures or apartments or units do or do not have the requisite planning permissions. Notably, even under the planning statute, namely the Maharashtra Regional and Town Planning Act, 1966 (“**MRTP Act**”), no distribution licensee is a planning authority for these purposes. It is not even a local authority for the purposes of the MRTP Act.

7. Ms Chavan clarifies that these clarifications will be issued as practice directions to the 17 or so distribution licensees in the State of Maharashtra by the Maharashtra Electricity Regulatory Commission (“**MERC**”). Ms Chavan also clarifies that these insertions will be added from the third billing cycle onwards.

8. With these clarifications, the continued presence of MSEDCL in these proceedings is unnecessary. We will not require a formal amendment once again of the Petition..

9. List the matter itself initially for directions on 3rd January 2024 when we propose to fix a date for final disposal of the matter. At the final hearing we will undoubtedly have to hear the person — we hesitate to call him the owner or the developer — who was responsible for the construction and the various persons in occupation of different units or tenements in the building.

10. The matter will be treated as part heard at the joint request of the parties.

**(Kamal Khata, J)**

**(G. S. Patel, J)**