

Smitha Vs. Deputy Chief Engineer

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Court : Kerala

Decided On : Dec-19-2013

Judge : Honourable Mr.Justice C.K.Abdul Rehim

Appellant : Smitha

Respondent : Deputy Chief Engineer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM THURSDAY, THE 19TH DAY OF DECEMBER 2013 28TH AGRAHAYANA, 1935 WP(C).No. 27957 of 2013 (T)

----- PETITIONERS: ----- 1. SMITHA, AGED 30 YEARS, W/O.SAJIMON, PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531.

2. HARISANAKR (MINOR), AGED 10 YEARS, S/O.SAJIMON, PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, REPRESENTED BY HIS FATHER AND GUARDIAN, SAJIMON PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531. BY ADVS.SRI.M.S.UNNIKRISHNAN SMT.JAYASREE MANOJ SRI.JITHIN PAUL VARGHESE SRI.K.SUNIL SRI.ADITYA MANOJ RESPONDENTS:

----- 1. DEPUTY CHIEF ENGINEER, ELECTRICAL CIRCLE, THODUPUZHA, PIN - 685 585.

2. ASSISTANT ENGINEER, ELECTRICAL SECTION, PEERUMADE, PIN - 685 531.
3. GREEN PALACE RESORTS AND HOTELS (INDIA) PRIVATE LIMITED, ACOMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AT PUTHENPURACKAL, CHINNARKAVALA, ELAPPRA P.O., CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, IDUKKI DISTRICT, REPRESENTED BY ITS MANAGING DIRECTOR, K.B.VIJAYAN, S/O.BHASKARAN, PUTHENPURACKAL, CHINNARKAVALA, ELAPPARA P.O., CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531.
4. RAJAMMA,, AGED60YEARS, W/O.DEVARAJAN, HOUSE WIFE, PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531. Msd. ...2/- ..2.. WP(C).No. 27957 of 2013 (T) -----
5. SAJIMON,, AGED35YEARS, S/O.DEVARAJAN, AGRICULTURIST, PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531.
6. DEVARAJAN,, AGED65YEARS, S/O.VELAYUDHAN, AGRICULTURIST,PUTHENPURACKAL HOUSE, CHINNAR KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531.
7. P.P.THAMPI,, AGED70YEARS, AGRICULTURIST, RESIDING AT GURUMANDIRAM HOUSE, ELAPPARA KARA, ELAPPARA VILLAGE, PEERUMEDU TALUK, PIN - 685 531. R3 BY ADV. SRI.G.SREEKUMAR (CHELUR) R1 & R2 BY SRI.JAICE JACOB,SC,KERALA STATE ELECTRICITY BOARD THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON1912-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Msd. WP(C).No. 27957 of 2013 (T) -----
- APPENDIX ----- PETITIONER(S)' EXHIBITS: -----
- EXHIBIT P1: COPY OF PLAINT IN O.S.NO.72 OF 2010 ON THE FILES OF SUB COURT, KATTAPANA. EXHIBIT P2: COPY OF WRITTEN STATEMENT SUBMITTED BY THE1T PETITIONER IN EXT.P1 SUIT. EXHIBIT P3: COPY OF EXPARTE

JUDGMENT

DATED 29^H AUGUST 2013 IN EXT.P1. EXHIBIT P4: COPY OF PETITION TO SET ASIDE THE EXPARTE DECREE. EXHIBIT P5. COPY OF THE

ORDER

IN EXT.P4 PETITION DATED 27^H SEPTEMBER 2013 EXHIBIT P6. COPY OF ENCUMBERANCE CERTIFICATE ISSUED BY THE SUB REGISTRAR PEERUMEDU. EXHIBIT P7. COPY OF PROCEEDINGS DATED 30.10.2013. EXHIBIT P8. COPY OF OBJECTION SUBMITTED BY THE PETITIONERS. EXHIBIT P9. COPY OF PETITION TO KEEP THE EXT. P3

JUDGMENT

IN ABEYANCE. EXHIBIT P10. COPY OF PETITION TO ADVANCE THE HEARING OF EXT. P4. EXHIBIT P11. COPY OF PETITION SUBMITTED BY THE PETITIONERS BEFORE THE 1ST AND 2^D RESPONDENTS. RESPONDENT(S)' EXHIBITS: ----- EXHIBIT R3(A): A TRUE COPY OF THE PROOF AFFIDAVIT FILED BY THE DEPONENT IN O.S NO.72 OF 2010 ON THE FILE OF THE SUB COURT, KATTAPANA DATED 12.08-2013. //TRUE COPY\\ P.A.TO JUDGE. Msd. C.K. ABDUL REHIM, J.

----- W.P.(c) No. 27957 OF 2013
----- DATED THIS 19^H DAY OF
DECEMBER, 2013.

JUDGMENT

Exhibit P3 is an ex-parte judgment passed in favour of the 3rd respondent company, against the petitioners and certain others. A document through which the petitioners had purchased certain properties, were nullified through the judgment (sale deed Nos.1231 of 2004 & 1429 of 2005 of SRO Peermade). On the basis of the said judgment and decree passed, the 3rd respondent company had approached respondents 1 & 2 to disconnect electric supply provided at two residential houses situated within the property which is covered by the sale deed which was cancelled. The petitioners are approaching this court challenging

Ext.P7 notice issued by the 2nd respondent calling upon them to submit objections against the proposed action for disconnection.

2. According to the petitioners, they have already approached the civil court seeking to set aside the ex-parte decree and applications filed in this regard are pending disposal. It is contended that, if pending disposal of such applications the W.P.(c) No.27957/2013 -2- electricity supply is disconnected, that will cause severe prejudice and irreparable legal injuries.

3. Learned counsel appearing for the 3rd respondent fairly conceded that the 3rd respondent has no objection in setting aside the ex-parte decree, for which they will concede before the civil court. It is further conceded that there is no objection in continuing the position with respect to the electric connection, till the suit is restored and disposed of on merits.

4. In view of the submission made as above, this writ petition is disposed of directing respondents 1 & 2 to restrain from any further action for disconnection of supply with respect to electric connections provided to the residential houses in question.

5. It is left open to the 3rd respondent to produce further judgment if any passed by the civil court in this regard and to seek appropriate action for disconnection, if circumstances permits, on a subsequent stage. Sd/- C.K. ABDUL REHIM, JUDGE.
AMG True copy P.A to Judge

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