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Court : Delhi

Decided On : Apr-06-1994

Reported in : ILR1995Delhi177; 1994RLR295

Judge : P.N. Nag and; R.L. Gupta, JJ.

Acts : Electricity Act, 1910 - Sections 22; Delhi Electric Connection Order (DECO), 1959

Appeal No. : Civil Writ Petition Nos. 2191 and 2192 of 1993

Appellant : S.C. Targ and ors.

Respondent : Delhi Electric Supply Undertaking and ors.

Advocate for Pet/Ap. : Ashok Gumani and; A.K. Pathak, Advs

Judgement :

R.L. Gupta, J.

(1) This judgment will dispose of Cwp Nos. 2191/93 and 2192/93. In the first petition the premises in dispute where electricity connection is desired by the pe'i*ioners is Flat No. 105 allegedly owned by them while in the second writ pe'ition. it is fiat No, 102 under the tenancy of the petitioners. Both are located in E-55, Greater Kailash Part Ii, New Delhi. Petitioners claim to be owners of flat No. 105 vide registered sale deed dated 25-2-1991. They applied for grant of electricity

connection to Delhi Electric Supply Undertaking (DESU for short) which refused to grant the same on 16-3-1993. thereforee, the prayer in the writ petitions is for issue of writ of mandamus. direction cr any other appropriate writ directing Desu to supply the electric connection in the aforesaid premises.

(2) The stand of Desu in its counter affidavit is that the premises in which the electricity connection is sought by the petitioners is an unauthorized construction or a building under deviation. There fore, it is governed by Delhi Electricity Control Order. 1959 (DECO for short) besides Section 22 of the Indian Electricity Act, 1910. This Control Order is alleged to have been issued by the Chief Coniinissioner. Delhi in exercise of powers conferred under Section 22B of India Electricity Act, 1910. The property belonging to the petitioners is alleged under deviation by SE(IV) M.C.D. vide his letter dated 13-7-1983 to DESU.

(3) We have heard arguments advanced by learned counsel for the parties. There is no doubt that under Section 22 of the Indian Electricity Act, 1910. every person within the National Capital territory of Delhi is entitled, on an application, being prepared to pay minimum annual sum or any other amount for supply of electricity from Desu who in turn is under obligation as a Licensee to supply energy to every person including the petitioners. However, it also cannot be disputed that under Section 22B of the same Act, the State Government has power to pass an appropriate order for maintaining the supply of energy. As already stated above, the Chief Commissioner, Delhi issued the DECO. Clause 4C of this Order is as follows : '4C. Prohibition on the installation of connections in favor of unauthorised occupants Notwithstanding anything contained in any contract or agreement or in any license granted under the Act or in any requisition no licensee shall make fresh supply of energy I increase supply of energy in case of commercial/domestic or industrial load in favor of any consumer at any premises till the said consumer produces a completion certificate from the Municipal/Local Authority concerned or document of title in respect of such premises if he is the owner there of or produces a valid rent receipt/note or other valid documentary proof of being the lawful occupant thereof. Provided that permanent electric connection may be provided to the occupiers of Government premises against the up- to-date receipt towards 'damage for unauthorised occupation' executed by the Department of

Rehabilitation without production of documentary proof of lawful occupation.

(4) The above clause clearly provides a prohibition on the installation of energy connection in favor of unauthorized occupants. The method for getting an electric connection contemplates the production of a completion certificate from the Municipal [Local Authority/or documents of title in respect of such premises if he is an owner. All the petitioners in first petition claim to be owners of flat No. 105, E-588, Greater Kailash Part Ii, New Delhi. thereforee, to enable them to get the supply of energy in his premises, they arc required H to produce not only a document of title but also a completion certificate from the Municipal[Local Authority. The petitioners have produced on record the; photo copy of sale deed dated 25-2-1991 executed in their favor by Smt. Leela Wati in respect of flat No. 105 with an area of 630 sq.ft. on the first floor in E-58S, Greater Kailash Part Ii, New Delhi. They do not allege in their writ petition whether either they or their predecessor-in-interest obtained any completion certificate in respect of the flat in dispute. It has been argued on behalf of the respondent that the building in which the electric connection is sought by the petitioners has been declared under deviation by Se (IV) Mcd vide his letter No. D/COE/83/PA/SC-IVj766 940 HCD/95 7./ dated 13-7-1983. It will, thereforee, be noticed that this building was declared under deviation in July, 1983 whereas the petitioners purchased this flat in February, 1991. They could not acquire better rights fot getting electric connection in the flat in dispute than their p'redecessor-in-interest. Confronted with this situation. it has been argued on behalf of the petitioners that the letter dated 13-7-1983 relied upon by the respondent is an ultra virus act on the part of Municipal Corporation of Delhi because neither under the Delhi Municipal Corporation Act, 1957 nor under Indian Electricity Act, 1910 the Municipal Corporation of Delhi is at liberty to issue such kind of letter. The aforesaid Acts did not confer any such power on the Mcd to issue kind of letter. This being an ultra virus act is liable to be ignored and, thereforee, petitioners were entitled to the electric connection sought by them. It may be noted that even in the rejoinder, the petitioners do not say anywhere it either they or their predecessor-in-interest at any time obtained a completion certificate. In such a situation when a completion certificate has not been obtained by the petitioners and it is alleged by the respondent that the flat in question is under deviation, are they still entitled to obtain electric connection in

such a premises

(5) Similar question arose before a learned Single Judge of this Court in Devinder Kumar Wadhwa v. Delhi Electric Supply Undertaking and others Air 1988 Del 236. While interpreting clause 4C referred earlier, it was held. 'that the aforesaid clause makes it obligatory on the consumer of electricity to produce a completion certificate from the Municipal/Local Authority and consequently he should also produce document of title in respect of such premises, if he is the owner, or a valid rent receptions or other valid documentary proof of being lawful occupant thereof.' It is not possible to accept the argument that if a property is declared under deviation by the concerned Municipal/Local Authority, it is still obliged to sanction electric connection in that building. The object cf incorporating such a clause in Deco seems to be to avoid providing of electric connections to unauthorised occupants who, though they may be either owner or tenant, do not have in their possession a completion certificate from the authority concerned If the licensee of electricity did not have such a power, the Metropolis of Delhi is likely to be blooded with a Mushroom growth of unauthorized constructions wherein the licensee may be obliged to helplessly provide electricity connection. thereforee, keeping in view the object of Clause 4C, it must be held that the object being to encourage only lawful construction, the issuance of instructions as contained in letter dated 13-7-1983 cannot be called to be ultra virus of the Indian Electricity Act, 1910 or any other Act. If it were not so, the very object of clause 4C is likely to be defeated. thereforee, to give a true meaning to clause 4C, it must be held that an occupant who is entitled to claim as of right the installation of electric connection must be either an owner or a tenant of the disputed premises and further that a completion certificate should have been obtained in respect of such premises from the Municipal/.Local Authority concerned.

(6) The next submission advanced by learned counsel for the Petitioner is that under Clause 4C, petitioners are required ' produce completion certificate from Municipal/Local Authority concerned or documents of title in respect to the premises if he is the owner there of or produce a valid rent receipt/note or other valid documentary proof of being the lawful occupant thereof. Admittedly. 'hey have documents of title in their favor in respect of flat No. 105, E-588. Greater

Kaliash Part Ii, New Delhi in Cwp No. 2191; 93 and in Cwp No. 2192/93, the petitioners are tenants of flat No. 102. thereforee, they are not required to produce completion cerificate from Municipal/Local Authority concerned as the phraseology used in Clause 4C is 'OR'. We are unable to accept this contention. As already discussed, the object of Clause 4C is to encourage only lawful construction and avoid Mushroom growth of unauthorized construction. Such an interpretation, if put on this Clause, would lead to absurdity and defeat the very object of Clause 4C for which it was enacted. Having regard to the scheme: and the object of the clause. in our opinion, the word Or used in Clause 4C should be read as AND. Such an interpretation shall also be in consonance with the basic principle of interpretation of statutes that the Status should be interpreted in such a way that it should advance. the remedy and suppress the mischief. Contention of learned counsel for petitioners has, thereforee, no substance.

(7) We are, thereforee, of the view that in the facts and circumstances of the case when the petitioners admittedly have not been able to produce on record a completion certificate in respect of the flat in question, they are bound to be declared unauthorized occupants qua such flats and thus not entitled to the grant of electric connection. These petitions, thereforee, have no merit and the same are hereby dismissed.

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