

Ashok Mukherjee Vs. the General Manager, M.T.N.L. and ors.

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Court : Delhi

Decided On : Aug-30-2000

Reported in : 2000(56)DRJ733

Judge : Manmohan Sarin, J.

Acts : [Constitution of India](#) - Article 226; Indian Telegraph Rules - Rule 443

Appeal No. : Civil Writ Petition No. 2028 of 2000

Appellant : Ashok Mukherjee

Respondent : The General Manager, M.T.N.L. and ors.

Advocate for Def. : Mr. Ravi Sikri, Adv.

Advocate for Pet/Ap. : Mr. P.R. Tiwari, Adv

Judgement :

ORDER

Manmohan Sarin, J.

1. Rule. <

Petitioner seeks a writ of mandamus against the respondent Mahanagar Telephone Nigam Limited for reconnection of his telephone No.714-4707. The said telephone is installed at premises No.B-4/33A, Ashok Vihar, New Delhi,

where the petitioner carries on the business of Annapurna Sweets and is lying disconnected. Petitioner states that the said telephone was disconnected on 1.12.1999, without any notice or there being any outstanding dues in respect of the said connection. <

2. According to the respondents, the telephone was disconnected on the ground of non-payment of dues of telephone No.684-6389, which is installed in the name of Ms. Bharti Mukherjee at 110, Ashram, New Delhi, who happened to be a relation of the petitioner. The said telephone was installed in the residential premises of Ms. Bharti Mukherjee. <

3. Petitioner filed the writ petition in April 2000 after there was no response to the legal notice dated 8.12.1999 served by the petitioner. The writ petition came up for hearing before the Court on 1.5.2000 when notice was issued. Counsel for the respondents accepted notice and undertook to file the counter affidavit within two weeks. Counter affidavit was not filed and further time of one week was granted on 10.8.2000 to file the counter affidavit. <

4. Today Mr. Ravi Sikri appears on behalf of the respondents. He very fairly submits that respondent MTNL has been advised by the counsel for the respondents to restore the telephone connection bearing No. 714-4707. In my view, this belated restoration would not suffice or meet the ends of justice. It is high time that respondents streamlined their procedure to ensure that invocation of Rule 443 of the Indian Telegraph rules is not done without there being any evidence of commonality of user or direct nexus between the subscribers or usage of the connections for common benefit. Provisions of Rule 443 of the Indian Telegraph should not be invoked on mere suspicion or there being mere relationship of the parties. As a matter of fact, it would be worthwhile for the respondent Mahanagar Telephone Nigam Limited to have an internal mechanism to ensure that power under Rule 443 of the Indian Telegraph Rules is invoked and exercised only after a responsible officer is satisfied about existence of facts warranting its invocation. In the instant case, there does not appear to be anything more than a mere relationship and a similar nature of business, i.e. sweet meat shop. <

5. In view of the aforesaid facts, respondents are directed to restore telephone No. 714-4707 forthwith, without levying any reconnection charges. Petitioner shall also not be liable for payment of rental charges during the period the telephone remained disconnected. Respondents are also burdended with costs of Rs.3,000/- , out of which Rs.1,500/- would be payable to the Delhi Legal Services Authority and the balance Rs.1,500/- to the petitioner. <

6. The writ petitioner stands allowed in the aforesaid terms.

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