

Criminal Misc. Application No.21/2019
Mehmud Babu Shaikh Vs. Hafiz Madumiya Ansari

ORDER BELOW EXH.05

(Passed on 03.12.2019)

Application is filed by applicant seeking relief of interim mandatory injunction against the non-applicants. Applicant has stated that applicant has been a tenant of the non-applicant No.1 for last 30 years. Applicant has been paying Rs.25/- per month towards monthly rent to the non-applicant No.1 for suit property. Applicant has also been paying an amount of Rs. 200/- per month towards electricity bill and has paid rent and electricity bill till 31.08.2019. However, from last one and half month, non applicant No. 1 has cut-off electricity connection of applicant-tenant.

2. Applicant is having small school going children. Due to cutting-off of an electricity connection, applicant's children could not study and therefore, there is inconvenience to the applicant's family. Therefore, applicant has prayed for seeking direction to non-applicant to restore electricity connection with immediate effect.

3. Non-applicant No.1 specifically denied application in toto except their relationship as landlord and tenant. Non-applicant No.1 further contended that it was agreed between them to share electricity bill equally. But applicant is neither paying rent nor paying amount towards electricity bill. On 12.09.2019, electricity company cut-off power supply due to non-payment of arrears of bill. Non-applicant No.1 is

unable to pay arrears of electricity bill of Rs.12,720/-. Non-applicant No.1 himself has not cut-off the supply. Applicant is also liable to contribute equally. Hence, there being no fault at the instance of non-applicant No.1, prayed for rejection of application.

4. Non-applicant No. 2 filed say and denied the application *in-toto*. Power supply has been temporally cut-off due to non-payment of the bill. If the bill is paid, it will be restored. Hence, prayed for rejection of application.

5. Considering the rival pleadings of the parties and material produced on record following points arose for my determination and I have recorded my finding thereon along with reasons as under :-

Sr. No.	Points		Findings.
1.	Whether plaintiff has made out a <i>prima-facie</i> case ?	..	Affirmative
2.	Whether balance of convenience lies in favour of plaintiff ?	..	Affirmative
3.	Whether plaintiff will suffer irreparable loss, if temporary injunction is refused ?	..	Affirmative
4.	What order ?	..	The application is allowed

: R e a s o n s :

As to Point No. 1 to 3 :-

6. All the points are interlinked with each other. Hence, for the sake of convenience, discussed

simultaneously.

7. Perused record. Heard both advocates at length. The relationship between landlord and tenant is admitted. Applicant has filed this application under section 29 of Maharashtra Rent Control Act, 1999. The relationship being admitted and giving regard to the circumstances of this case as stated by applicant on affidavit. Applicant has also filed on record extract of city survey No.276, Yeola, a copy of electricity bill for the year 2017 and 2013 and other documents.

8. Electricity supply is included in the essential supply and withholding the same includes omissions to pay electricity bill regularly to the service provider company which is an omissions attributable to the landlord on account of which the essential supply is cut-off by the MSEB company. Considering the facts on record, applicant is having *prima facie* case. On weighing competing possibilities of likelihood of injury, the balance of inconvenience is in favour of applicant. If interim mandatory injunction is not granted, an irreparable loss would be caused to applicant than that of non-applicant No.1. Hence, I answer point Nos. 1 to 3 in the affirmative. As non-applicant No. 2 is service provider and is ready to restore electricity connection on payment of arrears of bill, no specific directions needs to be given to the non-applicant No.2.

As to Point No.4 :-

9. As the result of affirmative findings as to Point

No.1 to 3, the application for grant of interim mandatory injunction as prayed deserves to be allowed in the interest of justice. Hence, following order is passed.

ORDER

1. The application is allowed.
2. Non-applicant No.1 is directed to restore electricity connection to the applicant on or before 06/12/2019 without fail.
3. Non-applicant No. 1 is directed to do all needful in restoring electricity connection including payment of electricity bill.

Sd/-xxxx

(Atish Pralhad Kholam)

Date : 03.12.2019
Place : Yeola

Jt. Civil Judge, Jr. Division,
Yeola, District Nashik