

**ORDER BELOW EXH. 5****(Shantisagar vs Sangli Zilla Beej Utpadak Sangh)**

The main proceedings is filed by the Applicant for restoration of Electric Supply under Sec.29 of Maharashtra Rent Control Act, 1999, in which Applicant has filed this application under Sec. 29 (3) of The Maharashtra Rent Control Act, 1908, and prayed for restoration of Electric Supply during pendency of inquiry contemplated application at Exh.1.

**THE CASE OF APPLICANT :-**

2. That, the Applicant is the registered Partnership Firm having No. MPA 32238, and Mr. Balasaheb Babgonda Patil is the partner of it having the authority to institute and prosecute suits etc. Opponent no.1 is the Co-operative society having business of sale and purchase of Seeds etc. of agricultural produce. The Applicant is doing business of wholesale trading of grains, cereals and pulses etc. as tenant in the property owned by Opponent no.1. The Gala no.2 and 3 having total area 22X33 fts in the Plot no. 348, situated in the Sangli Agricultural Produce Market Committee. (Hereinafter referred as 'said property' or 'said premises', for the sake of brevity and convenience.)

3. According to the Applicant, it is doing business in the said premises since 1999. At the beginning, the rent of said premises was fixed as Rs. 1500/-. Accordingly, Applicant was regularly paying it to Opponent no.1. However, after some years, looking at the settled business of Applicant, Opponent no.1 increased it as Rs.5000/-. Subsequently, Opponent again increased it at Rs. 13,000/-. Looking at the scarcity of properties in the local

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vicinity, Applicant had no option than to pay it to Opponent no.1. Still, Opponent no.1 tried to evict Applicant from said premises by taking the aid of police. Therefore, Applicant was constrained to institute the civil suit bearing no. 64/2016, in the Court of CJJD, Sangli for prohibiting Opponent from doing so. The said suit was decreed by the court in favour of Plaintiff, and granted the decree of Temporary Injunction against Opponent no.1.

4. The Opponent no.1 is always looking to evict the Applicant from said premises. The Applicant was paying the electricity charges to Opponent no.1 in addition to monthly rent. So also, the Opponent no.2 have also sanctioned the separate electricity meter connection bearing no. 279941825791 from 12/01/2023. Before that, Applicant was getting electricity from the meter connection on the name of Opponent no.1. The Applicant has also paid the deposit charges of new meter connection charges Rs. 9506/- on 28/02/2023 to Opponent no.2, upon the suggestion of Opponent no.1. Applicant is also paying the electricity charges regularly. Opponent no.1 is intending to evict Applicant from the said premises by using any means, and for the said purpose they have also communicated to Opponent no.2. The Opponent no.2 has, upon the application of Opponent no.1, have cut down the electricity connection on 01/08/2024.

5. When Applicant inquired with Opponent no.2 as to the cutting down the electricity connection, they got to know that Opponent no.2 has cut down the electricity supply upon the written application of Opponent no.1. Since the Applicant is doing the business of wholesale trading of cereals etc., the electricity supply is essential. Accordingly, Applicant is constrained to prefer the said application. However, the inquiry as to the application at Exh.1 may take time to determine on the merits. In the meantime, it will

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become impossible for Applicant to carry out business in absence of electricity supply. Accordingly, Applicant has preferred said application for restoration of electric supply in the meantime.

**The Case of Opponent No.1 is as follows -**

6. Opponent No.1 strongly objected the said application. They filed their Written Statement cum reply to Exh.5 at Exh.20. It categorically denied all the claims of Plaintiff. It was contended by Opponent no.1, the Applicant has suppressed some material facts from the Court. The Gala no.2 and 3 of Plot no. 348 were assigned to Applicant from 01/04/2013 for the period of five years. After end of said period, it has not been renewed yet. The Opponent no.1 has sent the legal notice through its advocate and has demanded the possession of said premises. The Applicant had instituted RCS No. 360/16 against the Sangli Agricultural Produce Market Committee (hereinafter referred as Sangli APMC for the sake of brevity and convenience). The Sangli APMC had not issued the License which is necessary to do business in APMC. Therefore, Applicant are not entitled to do any business at the Gala no.2 and 3 in the Plot no. 348. The Applicant has no any valid business running over the Plot no. 348. The Applicant has misused the License issued by Karad APMC to do business over Plot no.332, with that of Plot no.348. Thus, the business of Applicant has become illegal in absence of requisite license from Sangli APMC. In such case, if Applicant is running any business in Plot no. 348, it should have to be said as illegal.

7. The Applicant had instituted the civil suit, RCS No. 368/2019 against the Sangli APMC regarding Gala no.2 and 3 in Plot no. 348. Before instituting the said suit, Applicant had issued legal notice. However, for the

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**8.** Therefore, the Opponent no.1 had constrained to apply to MSEDCL for cutting of the electricity connection which is on the name of Opponent no.1. If the Opponent did not do so, the Applicant would have continued their illegal business over the Gala no.2 and 3 of Plot no, 348. In such case, the APMC may have recovered the possession of Plot no. 348 from Opponent no.1. Thus the Opponent no.1 has rightly cut down the electricity supply, so as to prevent the Applicant from taking benefit of the business illegally carried out by the Applicant. Accordingly, Opponent no.1 prayed for rejection of application.

**9.** The Opponent no.2 (MSEDCL) filed its Written Statement at Exh.29. Wherein they also denied the claim of Applicant. They stated that, there is no relief claimed by the Applicant against them, hence there is misjoinder

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**10.** From the submissions of rival parties, following points arose for my consideration, against which I have given my findings and appended my reasons to follow -

| Sr. No. | Points for Determination                                                                                 | Findings                |
|---------|----------------------------------------------------------------------------------------------------------|-------------------------|
| 1.      | Does Applicant prove that, it has <i>prima-facie</i> case in its favour ?                                | Proved                  |
| 2.      | Does Applicant prove that, the balance of convenience lies in its favour ?                               | Not Proved              |
| 3.      | Does Applicant prove that, it will suffer from irreparable loss if the Temporary Injunction is refused ? | Not Proved              |
| 4.      | Whether Applicant is entitled for Temporary Injunction?                                                  | No                      |
| 5.      | What order and relief ?                                                                                  | Application is Rejected |

**11.** In support of his case, the Applicant has relied upon some documents. They have been tabulated as under –

| Sr.No. | Exhibit No.      | Nature of Documents                                        |
|--------|------------------|------------------------------------------------------------|
| 1.     | Exh. 3/1 to 3/55 | Photocopies of Rent Receipts issued in favour of Applicant |

|            |                          |                                                                                   |
|------------|--------------------------|-----------------------------------------------------------------------------------|
| <b>2.</b>  | <b>Exh. 3/56</b>         | Photocopy of receipt of money paid towards Property Tax                           |
| <b>3.</b>  | <b>Exh. 3/57 to 3/58</b> | Photocopy of License looking to be issued by Sangli APMC to present Applicant     |
| <b>4.</b>  | <b>Exh. 3/59</b>         | Letter issued by Opponent no.1 for paying the Deposit amount of Electricity meter |
| <b>5.</b>  | <b>Exh. 3/60 to 3/61</b> | Receipts issued by Opponent no.1 to Applicant for shop Deposit                    |
| <b>6.</b>  | <b>Exh. 3/62</b>         | Receipt of Online Bill Payment from the website of MSEDCL                         |
| <b>7.</b>  | <b>Exh. 3/63</b>         | Electricity Bill                                                                  |
| <b>8.</b>  | <b>Exh. 3/64</b>         | Firm Quotation/Demand Note from the Website of MSEDCL                             |
| <b>9.</b>  | <b>Exh. 3/65</b>         | Photocopy of application form written by Applicant towards MSEDCL                 |
| <b>10.</b> | <b>Exh. 3/66</b>         | Photocopy as to Certificate of Registration of Partnership Firm                   |
| <b>11.</b> | <b>Exh. 10/1 to 10/3</b> | Screenshots of electricity bill payment                                           |
| <b>12.</b> | <b>Exh. 10/4</b>         | Certified Copy of Judgment in RCS No. 64/2016                                     |

**12.** The Opponent No.1 has also filed some documents on record, they are tabulated as under -.

| <b>Sr. No.</b> | <b>Exh.No.</b>           | <b>Nature of Documents</b>                                                          |
|----------------|--------------------------|-------------------------------------------------------------------------------------|
| <b>1.</b>      | <b>Exh. 27/1 to 27/2</b> | Copy of the rent agreement between Applicant and Opponent no.1                      |
| <b>2.</b>      | <b>Exh. 27/3</b>         | Photocopy of Judgment in RCS No. 360/16                                             |
| <b>3.</b>      | <b>Exh.27/4</b>          | Letter Written by Sangli APMC to Opponent no.1 as to license in favour of Applicant |

**13. ADMITTED/UNDISPUTED FACTS -**

Description and nature of rented premises bearing Gala no.2 and 3 in Plot No. 348 in Sangli APMC is looking to be undisputed by the parties. The relationship of landlord and tenant between Applicant and Opponent no.1 is looking to be admitted by both the parties. The fact of installation of new meter connection bearing no. 279941825791 is also looking to be undisputed by the Opponents. The cut-off of electricity by Opponent no.2, allegedly on the application of Opponent no.1 is looking to be undisputed by Opponents.

**14.** Perused the record. Heard Smt V.K.Murchite, the Id. Counsel for Applicant and Shri S.S. Doshi, Id. Counsel for Opponent no.1 in detail. Also heard smt. V.D. Yadav, Id. Advocate for Opponent no.2.

**REASONS**

**AS TO POINT NO. 1, 2 AND 3 -**

**15.** These points are about the three basic parameters of every application for Temporary Injunction i.e. *prima facie* case, Balance of Convenience,

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Irreparable loss alleged by the Applicant in its favour and denied by the Opponent. To avoid repetition of discussion, they have been discussed together. It is the settled position of law that, the term *prima-facie* case actually means the *bona-fide* contest between the parties. The *bona-fide* contest must result into an arguable case. There should not be a flimsy or fanciful case. Before going into the intrinsic factual details of the cases, I consider it necessary to have reference to the settled position of law laid down by the Honourable Supreme Court in the case of ***Dalpat Kumar And Another vs Prahlad Singh And Others*** reported in **AIR 1993 SC 276**, Their Lordships observed in Paragraph No 05 as under:-

“5. Therefore, the burden is on the plaintiff by evidence aliunde by affidavit or otherwise that there is "a *prima facie* case" in his favour which needs adjudication at the trial. The existence of the *prima facie* right and infraction of the enjoyment of his property or the right is a condition for the grant of temporary injunction. Prima facie case is not to be confused with *prima facie* title which has to be established, on evidence at the trial. Only *prima facie* case is a substantial question raised, bona fide, which needs investigation and a decision on merits.”

**16.** As discussed earlier, the relationship of Landlord and tenant between the Opponent no.1 and Applicant is looking to be undisputed by the parties. It is the case of Applicant that, Opponent no.1 is always looking to evict the Applicant from said premises. The Applicant was paying the electricity charges to Opponent no.1 in addition to monthly rent. So also, the Opponent no.2 have also sanctioned the separate electricity meter connection bearing no. 279941825791 from 12/01/2023. Before that, Applicant was getting electricity from the meter connection on the name of Opponent no.1. The Applicant has also paid the deposit charges of new meter connection

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**17.** In support of his contention, the Applicant has filed on record, at Exh.3/1 to 3/55, the photocopies of the receipts bearing the names of both Applicant and Opponent no.1. They occur to be the in the printed form and the name of Applicant is looking to have mentioned therein, with the content that the amounts looking to be mentioned therein have been accepted from the present Applicant in form of rent. Some of them also mentions that the amount is received in form of Rent, electricity bill as well as water charges. The oldest photocopy of them is looking to have the date of 28/09/1999. That means there is scope to presume that, the relationship of Landlord and Tenant is looking to have in existence from that date, that means the relation was in subsistence before the date of enactment of The Maharashtra Rent Control Act. So also, at Exh.3/56 there occurs the photocopy of the Property Tax Receipt issued by Sangli, Miraj and Kupwad Municipal Corporation.

**18.** The amount therein is looking to have paid by the Sangli Zilla Beejotpadak Co-operative Society, i.e. present Opponent no.1, and been received through the hands of Shantisagar Trading Company, i.e. present Applicant. It is the settled law that, all the documents present on record, can be taken into consideration waat time iof interim order, without looking at their admissibility and formal proof. Therefore, from the said documents,

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the facts pleaded by Applicant regarding the relationship between the Applicant and Opponent no.1 can be said to be in existence.

**19.** The Applicant has also filed at Exh.3/57 and 3/58, the photocopies of license issued by Sangli APMC in favour of present Applicant. Out of which, the photocopy of license AT Exh.3/57, shows that the said license was renewed on 30 October, 2023 and is valid till 01 April, 2024 to 31 March, 2024. At Exh.3/59, there occurs the letter wrote by Opponent no.1, on the letterhead of their society to present Applicant stating that, the new electricity meter connection has been approved to them, upon payment of Deposit Amount of Rs.9,506/-. At Exh.3/62, there occurs the print of 'receipt of online bill payment' downloaded from the website of Maharashtra State Electricity Distribution Co.Ltd. (MSEDCL), i.e Opponent no.2, for Rs.9506/-. At Exh. 3/64, there occurs the quotation/demand note issued by MSEDCL i.e. Opponent no.1 in favour of Opponent no.1 for the consumer no. 279941825791. At Exh.3/63, there occurs Electricity Bill for the consumer no. 279941825812. At Exh.3/66, there occurs the photocopy of Certificate of Registration of Partnership firm, issued by Registrar of Firms. At Exh.10/1 to 10/3 there occurs the printouts as to payment of electricity bill for the consumer no. 279941825812, for the month of May 2024 to July 2024. At Exh. 10/4, there occurs the certified copy of Judgment in RCS No.64/2016.

**20.** The Opponent no.1 in its pleadings has claimed that, the Gala no.2 and 3 out of the Plot No.348 were let to Applicant for 5 years, from the agreement dated 01/04/2023. The Opponent no.1 has also produced the photocopy thereof, at Exh.23/1 and 23/2. According to Opponent No.1, the said agreement has not been renewed since then. Therefore, the Applicant

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has become the statutory tenant. However, Id. Advocate for Applicant pointed out that, the word 'Statutory Tenant' is not mentioned anywhere in the Maharashtra Rent Control Act, 1999.

21. The Opponent no.1 has also filed the photocopy of the rent agreement looking to be entered between the Applicant and Opponent no.2. However, the word 'statutory tenant' was also not found in the Transfer of Property Act, upon its perusal. However, if it occurs to be the intention of Opponent no.1 that, applicant is not entitled to any relief because of non-renewal of rent agreement, the said cannot be taken into consideration today, as looking at the letter wrote by Opponent no.1 to Applicant about allotment of separate Electricity Supply at Exh. 3/59, it occurs to me at this stage that, the Opponent no.1 has acquiesced the fact of non-renewal of rent agreement. Thus, the issue of non-renewal of agreement cannot be taken into consideration at present stage. In such way, the documents filed by Applicant appear to be in consonance with its pleadings. The existence of prima facie case does not mean that the party should have the entire/whole case in its favour. However, the facts pleaded by Applicant and documents looking to be present on record looking to be in co-ordination with one another, in many sorts.

22. The Id. Advocate for Opponent no.1 also argued that, the reliefs prayed by the Applicant in its Application at Exh.1 and Exh.5 are looking to be identical. The application for interim relief having the identical prayer with the main application cannot be allowed, as it may require the full trial for its disposal. This contention of Id. Advocate for Opponent no.1 appears to be the settled position of law, and hence it cannot be neglected outrightly. However, as per the general rule, the application or the pleading of a party

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to a civil case, should be read in whole and not in parts. Although, the relief claimed by Applicant in the application at Exh.5 appears to be identical with that of in the Application at Exh.1, however, the paragraph no.5, if read in whole appears to have mentioned all the particulars which are ought to have mentioned in the application seeking interim relief. Thus this issue, in my consideration cannot be taken into consideration at this stage, without looking at the surrounding facts, circumstances and relevant provisions of law. However, looking at the discussion made at above succeeding two paragraphs of this order, I answer the Point no. 1 as proved.

23. Now, another important factor occurs to me necessary to decide is balance of convenience. There is a need of striking a fair balance between the two conflicting interests and thereby finding that who will suffer more inconvenience, if the necessary order is not issued. For the said purpose, in my opinion, the facts pleaded as to alleged illegality of Applicant's business by Opponent no.1 as well as the particulars as to the cut-off of electrical connection supply are needed to be discussed.

24. Ld. Advocate for Opponent no.2, the meter connection nos. mentioned in the Application as well as the electricity bill annexed at Exh.3/63 are different. Therefore, it is not clear that which meter connection was actually cut off by the Opponent no.2. Because from the application at Exh.1 and Exh.5, it appears that Applicant is having electricity supply from the meter connection no. mentioned therein, and not from the meter connection no. mentioned in the electricity bill annexed at Exh.3/63.

25. Upon perusal of record, it appears that applicant pleads in the application at Exh. 1 and Exh. 5 that, it has got new electricity connection

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**26.** The Opponent no.2 has pleaded that, the meter connection no. 279941825791 is still working and has not been cut off. However, the meter connection no. 27994182581 has been cut off by them upon the application of Opponent no.1 dated 25/07/2024. In such case, it can be assumed that the meter connection recently allotted to Applicant by Opponent no.1 is in working condition.

**27.** Another fact strongly contended by Opponent no.1 is that, the Applicant has no valid business in the said premises, i.e. Gala no.2 and 3 on the Plot no.348. The Sangli APMC has not granted any license to Applicant for doing business over Plot no.348. The Applicant is using the License granted to it by Sangli APMC in connection with Plot No.332, which is

**MHSN020025532024** (Shantisagar Trading vs. Sangli Zilla Beej Utpadak Sangh) owned by Karad Taluka Sale and Purchase Association. Since the Applicant have got no License for doing business over Plot No.348, the business if any running over it, is illegal.

**28.** There occurs multiple photocopies of licenses present on record filed by both parties, which are obviously of different years. The Applicant has filed two at Exh.3/57 and 3/58 respectively. The Opponent no.1 has filed at Exh.29/1, the photocopy of license issued in their name by Sangli APMC. The Id. Advocate for Opponent no.1 drawn my attention towards the condition no. 6 printed overleaf of those licenses. It occurs to be such that, the License holder can do trading only at the place for which the license has been granted to it. The argument of Id. Advocate for Opponent is looking to be based over the said condition mentioned therein.

**29.** However, Id. Advocate for Applicant also drawn my attention towards the front page of such license, wherein the place or property no. has not been mentioned, and it has been mentioned that the license has been granted to concerned license holder for trade in Sangli Main Market Yard, Miraj Market Yard, Kavthe Mahankal Market Yard and Jath Market Yard for the trade of all things mentioned therein.

**30.** The Opponent has filed at Exh.23/4, the letter wrote by Sangli APMC towards Opponent no.1, wherein it is looking to be mentioned therein that, the present Applicant i.e. Shantisagar Trading Company has not been granted with the license to do business over Plot No.348 for the year 2024-25, but the license has been granted for doing business over the Plot no.332, owned by Karad Taluka sale and purchase Co-operative association. However, whether the license therein is a place-specific (i.e. concerning to a

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specific place of business or not) is looking to me as the matter of detailed evidence as it may require the detailed evidence.

31. It is the settled position of law that, the expression 'just and reasonable cause' should not be the cause which is arisen from mere suspicion. Looking at the above mentioned discussion, although the interpretation of the terminology in the aforementioned documents is the part of interpretation, and the bonafideness thereof, is a matter of detailed hearing, however at this stage the cause put forward by Opponent no.1 does not occur to me as based on suspicion. Accordingly, I answer the point no. 2 as not proved.

32. This point is as to the irreparable loss and greater hardship which would be passed by either party, in case interim relief is granted or rejected. The original case of Applicant is regarding that, the Opponent no.2 have also sanctioned the separate electricity meter connection bearing no. 279941825791 from 12/01/2023. Before that, Applicant was getting electricity from the meter connection on the name of Opponent no.1.

33. However, the Opponent no.2 has pleaded that, the meter connection no. 2779941825791 which was allotted to Opponent no.1 is still in working condition. The meter connection no. 279941825812 was cut off as per the application of Opponent no. dated 25/07/2024. The Opponent no.2 i.e. MSEDCL is authority in control of regulating the electric supply. In such case, *prima facie* relying at the submissions of Opponent no.2. it occurs to me that, the electric supply provided to Applicant by Opponent no.1, is looking to be uninterrupted. It is not looking to be clear to me that, whether applicant was enjoying the electric supply from the meter connection no.

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279941825812 or not. In such case, the hardship which may be caused to Applicant due to cut off of the meter connection no. 279941825812 cannot be readily presumed. Accordingly, I answer point no.3 as not proved.

**AS TO POINT NO. 4 AND 5 -**

**34.** This issue is concerned with the entitlement of Applicant as to the relief prayed. From the above-mentioned discussion, it has become clear that there appears *prima facie* case in favour of Applicant. However, points as to Balance of convenience as well as irreparable loss are answered as not proved. The remedy u/Sec. 29 (3) of the Maharashtra Rent Control Act is the discretionary remedy. The discretion of Court is always based on sound principle of justice, equity and good conscience. Hence at this stage, I consider that the Applicant is not looking to be completely entitled to the relief of restoration of electric supply, during the pendency of inquiry as contemplated under Sec.29(3) of Maharashtra Rent Control Act.

**35.** At the same time, as many of the facts taken recourse by both the parties such as to the documents, relevancy of observations made by the courts in RCS No. 64/2016 and RCS No. 368/2016 etc. requires detailed hearing. Therefore, it would be proper to order parties to bear their own costs. Cumulatively, I tend to pass following order in answer to point 4 and 5.

**ORDER**

1. Application at Exh. 5 for restoration of electric supply, during the pendency of inquiry as contemplated under Sec.29(3) of Maharashtra Rent Control Act is rejected.

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2. Parties to bear their own Costs.

**Date - 12/09/2024**

**Onkar S. Shastri**

**11<sup>th</sup> Jt. Civil Judge Jr. Division, Sangli.**