

**Order below Exh.5 in Regular Civil Suit No.621/2023**

(CNR No.-MHST-05-000578-2023 )

This application is filed by plaintiff under Section 39 of the Specific Relief Act, 1963 for mandatory injunction to be given to defendant No.1 i.e. Dy. Executive M.S.D.C.L. engineer for re-installation of the electricity connection to the suit property 1B.

2. The case of the plaintiff in short is as under:-

The plaintiff resides in suit property 1B. She is permanent resident of suit property 1B. On suit property 1B electricity connection was taken in the year 1994 and its customer number was 197840008825 and meter number was 07642676847 which stood in the name of her deceased husband Dattatraya Rajaram Khabale. Her husband expired on 17/01/2012 and inspite of it the electricity connection continued in the name of her deceased husband. Defendant No.2 and 3 are sons of the plaintiff. There is dispute between plaintiff and defendant No.2 and 3. As per the plaintiff in the year 2021 the defendant No.1 had charged more electricity bill to the defendant No.1 and thereafter without giving any notice to the plaintiff the defendant No.1 has cut off the electricity connection. Thereafter, on 12/12/2022 the plaintiff cleared all the electricity dues but, even then electricity connection was not reconnected and thereafter on 26/01/2023 the defendant No.1 again gave electricity bill of Rs. 10,560/- inspite the

electricity connection being disconnected. In the year 2021 the plaintiff had given application to defendant No.1 for reinstating the electricity connection but, inspite of her application the defendant No.1 had failed to do so. Thereafter, the defendant No.1 had intimated the plaintiff that defendant No.4 has also filed an application for getting electricity connection upon the suit property.

3. The plaintiff has contended that, the defendant No.2 and 3 who are her sons under misrepresentation had taken illegal relinquishment deed in respect of suit property from her. As such plaintiff has filed a separate suit for cancellation of relinquishment deed and the sale deed executed by defendant No.2 and 3 in favour of defendant No.4. The plaintiff is a senior citizen and defendant No.2 and 3 by taking benefit of her illiteracy have sold out the suit property to the defendant No.4 even though the possession over the suit property is of plaintiff. As such the plaintiff being in possession of suit property is entitled for electricity connection from defendant No.1. Thus, the plaintiff is praying to allow her application.

4. The defendant No.1 has resisted the application by filing say below Exh.15 and contended that the suit property is legally transferred to defendant No.4 and as such the name of defendant No.4 is entered upon the suit property. Electricity connection is given to the person upon whose name the property

stands, so, that the said person can be held responsible for the recovery of dues of the electricity bill. As there is dispute in respect of ownership between the plaintiff and defendant No. 4 so the electricity connection is not installed. The defendant No.1 has further contended that registered sale deed in respect of suit property is standing in the name of defendant No.4. Even on 8A extract of suit property the name of defendant No.4 is recorded. As such there is legal as well as technical problem to give electricity connection in the name of plaintiff. Hence, the defendant No.1 prayed to reject the application.

5. From the rival contentions of both sides following points arise for my determination, to which I have recorded my findings thereon with reasons to follow.

<b>Sr.No</b>	<b>POINTS</b>	<b>FINDINGS</b>
1	Whether the plaintiff has prima facie case in her favour?	.... <b>In negative.</b>
2	Is the balance of convenience in favour of the plaintiff ?	.... <b>In negative.</b>
3	Do the plaintiff prove that she will suffer irreparable loss if temporary injunction is not granted in her favour ?	.... <b>In negative.</b>
4	What Order ?	<b>As per final order.</b>

### REASONS

#### AS TO POINT NO.1 :-

6. On perusal of pleading of plaintiff it is not clarified as to who at present is the owner of the suit property. Plaintiff contends to be the possessor of the suit property 1B and previously the electricity connection and meter to be standing in the name of her deceased husband Dattatraya Rajaram Khabale. From her pleading it appears that, on 09/10/2015 one relinquishment deed in respect of suit property is executed from her fraudulently by defendant No.2 and 3 who are her children. After execution of relinquishment deed it also appears that one sale deed of suit property is executed bearing registration No.351/2021 in favour of defendant No.4. Though, the plaintiff contends that, the relinquishment deed was executed illegally and has also challenged the relinquishment deed and consequent sale deed in another suit bearing R.C.S.No.255/2021, but from this fact one thing is clear that at present the suit property stands in the name of defendant No.4, in short defendant No.4 is title holder of suit property. When the suit property is standing in the name of defendant No.4 so alleged possession of plaintiff upon the suit property is under question/doubt. So here considering the fact that the suit property to be standing in name of defendant No.4 it cannot be said that, plaintiff has made out a prima facie case in her favour. Hence, I answer point No.1 in the negative.

**AS TO POINT NOS.2 TO 4 :-**

7. When plaintiff failed to make out a prima facie case then it cannot be said that balance of convenience lies in her

favour and so no question of causing irreparable loss to the right of plaintiff would arise. Accordingly, I answer point No.2 and 3 in negative and in response to point No.4 pass following order.

**ORDER**

1. Application stands rejected.
2. Costs in cause.

Date-06/11/2023.  
Place-Karad.

(Smt.S. Y. Deshmukh)  
2<sup>nd</sup> Jt. Civil Judge, Sr. Dn, Karad.