

**IN THE COURT OF THE PRL.SENIOR CIVIL JUDGE
MEDCHAL MALKAJGIRI DISTRICT, AT MALKAJGIRI**

Present : SRI D.Kiran Kumar
Prl.Senior Civil Judge
Medchal-Malkajgiri District
at Malkajgiri.

Tuesday, the 7th day of August, 2023

**I.A.No.1171 of 2022
in
O.S.No.479 of 2021**

Between :

K.Giribabu, S/o.Krishna,
aged about 40 years, Occ:Tailor,
R/o.H.No.32-88/3, First Floor,
Beside Ramalayam,
Devinagar, Neredmet, Malkajgiri Mandal,
Medchal District.

...Petitioner/Plaintiff

AND

1.K.Shantamma, W/o.K.Krishna,
aged about 61 years, Occ:Housewife,
R/o.H.No.29-468/2A, Old Police Station,
Neredmet, Malkajgiri Mandal, Medchal District.

2. K.Narasimha, S/o.Late K.Krishna,
Aged about 40 years,
Occ:Private Employee,
R/o.H.No.29-468/2, Keshavnagar,
Neredmet, Malkajgiri,
Medchal-Malkajgiri District.

...Respondents/Defendant No.1 and 3.

This Petition is coming up before me for final hearing on 11-07-2023 in the presence of Sri D.Ramakrishna, Advocate for Petitioner and of Sri K.Ravi Kanth, Advocate for Respondent No.1 and 3 and the matter is having been stood over for consideration till this day, the court delivered the following:

ORDER

1. This Petition is filed Under Section 151 CPC to direct the Respondent No.1 and 3/Defendant No.1 and 3 to restore the electricity supply to the two mulgies situated in Item No.V of suit schedule property.

2. **The case of the Petitioner in brief is as follows:**

The Petitioner is Plaintiff in the above suit, the Respondents are defendants they are mother, father of the Petitioner. The Petitioner was given two shops to run tailoring shop for his livelihood by the Respondent No.1, since the year 2004 the Petitioner is running a shop. The first respondent and 3rd respondent with an intention to evict the Petitioner from the shops have removed electricity supply to the mulgies on 6-10-2021 with an intention to vacate the Petitioner. The petitioner by conducting tailoring shop eking out livelihood, electricity supply to his shop is very much required even after payment of bills and assurance by the Petitioner that he will pay the pending dues the respondents have removed electricity supply as the Petitioner filed a suit for partition against them. The two shops are included in Item No.5 of the suit schedule property for partition. The Respondent No.1 filed O.S.No.117/2017 for eviction of the Petitioner and it is pending on the file of Jr.Civil Judge, Malkajgiri, pending said

suit on admonition of the Court electricity supply was restored finally said suit was withdrawn. The Petitioner herein entitled to electricity supply and it is basic requirement to run his shop, he is ready to pay the bills towards consumption of electricity clear dues therefore filed this petition to restore the electricity supply.

3. The Respondent No.1 and 3 filed counter contending that the contents of the Petition are false and incorrect, the Petitioner is not conducting tailoring business in the petition schedule premises. Case in O.S.No.117/2017 filed for eviction said suit was referred to Lok Adalath under an application Under Order 23 Rule 3 CPC and settled the matter before Lok Adalath, in terms of compromise the suit was disposed off by passing an order. The Petitioner deliberately not complied the orders of Lok Adalath award. The Petitioner also breached protection order passed in DVC No.10/2017. The Petitioner is not entitled for electricity supply, the Petitioner approached this Court with unclean hands by suppressing material facts therefore prayed to dismiss the petition.

4. **Now the point for determination is :**

“Whether the Petitioner is entitled for restoration of electricity supply to the two mulgies of suit schedule property” ?

5. Heard both sides.

6. Learned counsel for the Petitioner contended that the Respondent No.1 and 3 without any reason, with an intention to evict the Petitioner from the two shops removed the electricity supply on 6-10-2021, he is in possession from 2004, the relationship is not denied, possession of the Petitioner is not denied therefore prayed to allow the petition.

7. Learned counsel for the Respondent submitted that in view of the compromise in O.S.No.117/2007 between the Petitioner and Respondents eviction suit disposed off, the Petitioner failed to obey terms in compromise and he breached protection order in DVC No.10/2017 therefore prayed to dismiss the petition.

8. **POINT:**

The Petitioner herein is Plaintiff, Respondent No.1 is mother and Respondent No.3 is brother of the Petitioner. The Petitioner filed the present suit for partition of suit schedule 'A' and 'B' properties. The Petitioner claims that he is running a Tailoring shop in Suit schedule 'A' (IV) property in two mulgies from the year 2004, on 6-10-2021 the respondent No.1 and 3 have removed electricity supply. The suit schedule 'IV' property is house situated at Vidya Nagar Colony, Malkajgiri Municipality, Ranga Reddy District. The Petitioner is claiming 1/4th share in suit schedule 'A' property and 3/4th share in

suit schedule 'B' property. The stage of present the suit is for filing written statement and appearance of remaining defendants.

9. Admittedly the Petitioner No.1 is son of Respondent No.1, the Respondent is own brother of the Petitioner. As seen from the contents in counter it is mentioned that O.S.No.117/2017 is filed for eviction against the Petitioner and the electricity connection was restored, the suit referred to Lok Adalath and matter settled in terms of compromise, the Petitioner failed to obey the terms of the compromise as such he is not entitled for electricity supply.

10. The Respondents have filed certified copy of order in DVC No.10/2017 it is filed by the Respondent No.1 herein against the Petitioner by passing protection order and to pay Rs.8000/- per month towards the rent and also compensation to the Respondent No.1. O.S.No.117/2017 is a suit filed for eviction against the Petitioner by the Respondent No.1 in this suit the Defendant No.2 is shown as Sri Sai Tailor Shop represented by the Petitioner herein and this suit is filed for eviction of the Petitioner, and it is settled before Lok Adalath in terms of compromise that the Petitioner herein agreed to pay Rs.4000/- per month to the Respondent No.1 for maintenance out of the rent and the petitioner agreed to pay electricity bills of his two mulgies and the Respondents have agreed not to cause any

nuisance, in terms of these conditions eviction suit ended in compromise.

11. It is admitted fact that, the petitioner herein is running a tailoring shop in two mulgies, the Respondent No.1 filed eviction suit against Petitioner, later in terms of compromise said suit settled. In terms of the compromise conditions the Petitioner herein has to pay maintenance and electricity charges. In the course of arguments on enquiry learned counsel for the Respondents submitted that since the Petitioner failed to pay the due electricity consumption charges the electricity connection was removed by concerned electricity department, they have not removed electricity and the Petitioner failed to comply the conditions of compromise made before Lok Adalath.

12. Admittedly, the Petitioner herein is running a tailoring shop in the two mulgies, there is no electricity supply to the mulgies. The Petitioner filed this suit for partition and claiming share in the suit schedule property out of which two mulgies are also part of the suit schedule property. The relationship of the Petitioner with the Respondent No.1 and 3 is not denied, entitlement of the petitioner to get share in the suit property has to be decided after recording the evidence of both parties.

13. It is settled proposition of law that, electricity is a basic amenity of a which a person cannot be deprive, even a tenant who is in occupation of the property electricity supply cannot be declined on the ground of non payment of rent. In the present case the petitioner is in possession of the property the person who is in possession of the property cannot be deprived of its enjoyment by getting electricity, unless he is dispossessed by following due procedure established under law he is having right to get electricity for use of the property.

14. In the present case the Respondent contended that because of default in payment of electricity charges connection was removed. Electricity supply is regulated by the concerned power distribution company and it is not within the control of the Respondents. No person is entitled to get free electricity supply without paying the charges and without clearing its dues.

15. In this case the Petitioner claiming possession over two mulgies from the year 2004 onwards, he is under an obligation to pay the electricity charges for the mulgies under his control, the Petitioner not filed any documents to show that he cleared electricity charges. The petition schedule property mulgies are in the name of the Respondent No.1, it is represented separate service meter connection is available to these mulgies in occupation of the Petitioner. In these

circumstances if the Petitioner is permitted to clear all the dues, charges for the electricity meter of mulgies on such clearance if the electricity supply is restored no hardship will be caused to the Respondents. Accordingly the petitioner is entitled to get restoration of electricity supply on payment of dues charges to the electricity department.

16. **In the result**, this petition is allowed directing the Petitioner to pay due electricity charges to the concerned electricity department on such payment ERO, Malkajgiri is directed to restore the supply to the mulgies. In the circumstances of the case there are no order as to costs.

Typed to my dictation by Stenographer G-II directly on the computer and after corrections, pronounced by me in open Court, on this the 7th day of August, 2023.

Principal Senior Civil Judge,
M.M. District at Malkajgiri.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR THE PETITIONER

-None-

FOR THE RESPONDENTS

-None-

EXHIBITS MARKED

FOR THE PETITIONER:

-Nil-

FOR THE RESPONDENTS:

-Nil-

Principal Senior Civil Judge,
M.M. District at Malkajgiri.

DECREETAL ORDER

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE,
MEDCHAL-MALKAJGIRI DISTRICT, AT MALKAJGIRI**

Present : SRI D.Kiran Kumar
Prl.Senior Civil Judge
Medchal-Malkajgiri District
at Malkajgiri.

FRIDAY, THE 14th DAY OF JULY, 2023

I.A.No.204 of 2022

in

O.S.No.06 of 2022

Between :

1. The Kashipuram Housing Society Welfare Association
Registered with the Registrar of Societies
with registered No.376 of 2017
Sy.No.20& 22, GHMC Alwal,
Malkajgiri- Medchal District
Rep.by its Secretary Sri B.Ranga Raju,
S/o.Late B.Pitchi Raju

2. B.Ranga Raju, S/o.Late B.Pitchi Raju
aged about 55 years, General Secretary,
The Kashipuram Housing Society Welfare Association
Plot No.133, Kashipuram Housing Colony,
Road No.4, Jonnabanda, Old Alwal, Secunderabad
Medchal- Malkajgiri – 500010.

3.Sri Pandari Satish Kumar Sharma,
S/o.Sri P.Suryanarayana Rao,
aged about 40 years, Treasurer,
The Kashipuram Housing Society Welfare Association
H.No.1-5-564/22/1/76, Road No.2,
Kashipuram Housing Colony,
Near Healthy Brain Hospital,
Jonnabanda, Old Alwal, Secunderabad

Medchal-Malkajgiri – 500010.

...Petitioners/Proposed D4 to

D6

AND

1.Smt.K.Rajitha, W/o.Sri K.Manaiah,
aged about 51 years, Occ:Housewife,
H.No.2-3-512/48/a, Bapu Nagar, Amberpet, Hyderabad.

2. Sri Emudaboina Balakrishna Ravi Mohan
S/o.Sri E.M.Balakrishna,
aged about 50 years, Occ:Business,
H.No.83/A, Sadar Bazar,
Bolaram, Secunderabad.

3. Sri Emudaboina Balakrishna Murali Mohan
S/o.Sri E.M.Balakrishna,
aged about 48 years, Occ:Business,
H.No.83/A, Sadar Bazar,
Bolaram, Secunderabad.

...Respondent No.1 to

3/

Plaintiff No.1 to 3

4. The Greater Hyderabad Municipal Corporation
Rep.by its Commissioner
Lower Tank Bund, Hyderabad.

5. The Greater Hyderabad Municipal Corporation
Rep.by its Zonal Commissioner,
Alwal, Secunderabad.

6. The Greater Hyderabad Municipal Corporation
Rep. By its Asst.City Planner, Alwal Circle-27,
Alwal Secunderabad.

...Respondent No.4 to
6/Defendant No.1 to 3

CLAIM:- This petition is filed under Order 1 Rule 10 (2) R/w.151 CPC to implead the Petitioners/third parties as Defendant No.4 to 6 in the suit.

PETITION PRESENTED ON:- 23-02-2023

PETITION NUMBERED ON:- 23-02-2023

This Petition is coming up before me for final hearing on 05-07-2023 in the presence of Sri G.Purushotham Rao, Advocate for Petitioner/Proposed Defendant No.4 to 6 and of Sri V.Venkata Mayur, Advocate for Respondents/Plaintiffs and having been heard and stood over for consideration till this day, this court delivered the following decreetal order:-

1) That the petition be and the same is hereby dismissed.

2) That there shall be no order as to costs.

Given under my hand and seal of this court on this 14th day of July, 2023.

**Prl. Senior Civil Judge,
at Malkajgiri**

MEMO OF COSTS

	<u>For the Petitioners</u>	<u>For the Respondents</u>
Petition	Rs. 1-00	-
Vakalat	Rs. 105-00	105-00
Process	Rs.	
Advocate fee	-	--
Miscellaneous		
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	Rs.106-00	105-00
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Judge,

**Prl. Senior Civil
at
Malkajgiri**