

M/S Sn Enterprises And Another vs Ut Of J&K And Others on 19 June, 2024

Author: Rahul Bharti

Bench: Rahul Bharti

Serial No. 40

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Case:- WP(C) No. 1423/2024
CM No. 3511/2024

M/s SN Enterprises and another

.....Appellant(s)/Petitioner(s)

Through: Mr. Rohit Sharma, Advocate.

Vs

UT of J&K and others

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

(19.06.2024)

1. The petitioner No. 2-Balwan Singh and his ancestors are original inhabitants of village Dhammi, Nagrota, Jammu. The petitioner No. 2-Balwan Singh is said to be owning and possessing land comprised in khasra No. 298 of village Dhammi, tehsil Nagrota, district Jammu whereat the petitioner No. 2 is said to have appropriated some portion of ownership land for the shops construction having 4-5 shops for the purpose of earning his livelihood. These shops are said to have been in existence for the last more than nine years.

2. With respect to these shops, the petitioner No. 2-Balwan Singh was having an electricity connection issued by the Jammu and Kashmir Power Distribution Corporation Limited. For one of the shops, the petitioner No. 2- Balwan Singh is having an electricity connection identified with Consumer ID No. 0101040010037 issued by the EM&RE Division, Sub Div-IV Nagrota.

3. With respect to the shop with the aforesaid electricity connection, the petitioner No. 2-Balwan Singh came to enter into a rent agreement with the petitioner No. 1 for the purpose of a Nescafe counter.

4. The petitioner No. 1 is having a license under Food Safety and Standards Act, 2006 for the sake of running Nescafe Shop at village Dhammi, Nagrota. On the purported cause of action that the petitioner No. 2-Balwan Singh has encroached forest land in khasra Nos. 713, 298 & 298 of village Dhammi, tehsil Nagrota, the petitioner has come to suffer an eviction order under the Indian Forest Act, 1927 passed by the Estate Officer, Divisional Forest Officer Jammu Forest Division Jammu vide an order dated 13.05.2024 against which the petitioner No. 2- Balwan Singh has taken an appeal to the statutory appellate authority.
5. In the meantime, the Divisional Forest Officer Jammu in furtherance of eviction order dated 13.05.2024 addressed a communication dated 20.05.2024 to the Deputy Commissioner, Jammu seeking disconnection of the electricity connection of the purported encroachers of the forest land in khasra Nos. 210, 712/292 of Nagrota tehsil and also removal of transformer from the forest land. In this letter, the Divisional Forest Officer Jammu Forest Division Jammu came to name four persons to be alleged encroachers.
6. The Deputy Commissioner, Jammu by a stroke of pen referred the letter to Xen ED-I/II/III whomsoever concerned as a result whereof the petitioners have come to suffer loss of disconnection of the electricity connection with respect to the shop whereat the petitioner No. 1 is running Nescafe counter and that has left the petitioners aggrieved to approach this Court facing an imminent eviction from the site of the shops and also loss of electricity connection.
7. Insofar as eviction part is concerned that the matter is subjudice in appeal. However, with respect to the manner in which the electricity connection has come to suffer disconnection has left the petitioners seriously aggrieved that without affording any opportunity of hearing to them, with a stroke of pen the Deputy Commissioner, Jammu acting on the dictation of the Divisional Forest Officer Jammu Forest Division Jammu came to carry out the disconnection of the electricity connection of the petitioners through the medium of the concerned officials of the electricity department.
8. Prima facie case is made out.
9. Issue notice to the respondents.
10. Petitioners to furnish registered postal covers for the service of the respondents within seven days, whereupon the Registrar Judicial, Jammu to issue notices to the respondents.
11. List on 26.07.2024.
12. In the meantime, operation of the communication No. DFO-J/942-49 dated 20.05.2024 issued by the Divisional Forest Officer Jammu Forest Division Jammu to the Deputy Commissioner, Jammu shall remain stayed. Any consequent direction passed thereupon by the Deputy Commissioner, Jammu shall also remain stayed.

13. The respondents No. 2 to 4 are directed to restore electricity connection of the petitioners with respect to the shop in reference for which the electricity connection Consumer ID No. 0101040010037 was having the electricity connection and compliance to be carried out forthwith. The respondents are directed to maintain status-quo vis-à-vis the premises in reference. This direction is, however, subject to objections from the other side.

(RAHUL BHARTI) JUDGE JAMMU 19.06.2024 Shivalee