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IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 24th OF SEPTEMBER, 2026

WRIT PETITION No. 17709 of 2026

SMT. PREETI SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Arshad Ali M. Haque - Advocate for the petitioner.

Shri Shiraz Qureshi - Govt. Advocate for the respondents/State.

Shri Prateek Kulshrestha - Advocate for the respondents No.2 and 3.

Ms. Himanshi Pathak - Advocate for the respondent No.5.

ORDER

The present petition, under Article 226 of the Constitution of India, has been filed by the petitioner being aggrieved by the action of the respondent authorities in disconnecting the temporary electricity connection provided to the petitioner in respect of the house situated at Chutmul Ki Bazaria, Sai Kripa Ke Samne, Chakki Wali Gali, Lohiya Bazar, Lashkar, Gwalior on the basis of complaint made by respondent No.5, who is the mother of the petitioner, and further for a direction to the respondent authorities to provide fresh electricity connection or to reconnect the earlier temporary electricity connection.

2. Learned counsel for the petitioner, while vehemently assailing the action of the respondent authorities in disconnecting the electricity

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connection, has submitted before this Court that the petitioner has acquired a share in the property in question pursuant to the civil proceedings in which respondent No.5, being the mother of the petitioner, was also a party. It is submitted that the parties entered into a compromise by filing an application under Order XXIII Rule 3 of the Code of Civil Procedure and the respective shares of the parties were settled in accordance with law.

3. It was further submitted that pursuant to the aforesaid compromise, the petitioner has been residing in the premises in question along with her husband and children. The house in question is situated at Chutmul Ki Bazaria, Sai Kripa Ke Samne, Chakki Wali Gali, Lohiya Bazar, Lashkar, Gwalior and consists of ground floor and two upper floors. It is submitted that the property was shown as 'A' in the map annexed with the civil proceedings and the respective shares were divided amongst the concerned persons, including the daughters and daughter-in-laws, and the petitioner claims 1/7th share therein.

4. It was further submitted that after obtaining the aforesaid share, the petitioner started residing in the portion falling to her share along with her family members and was initially using the water and electricity facilities through the connection standing in the name of her father. Subsequently, certain disputes arose between the petitioner and respondent No.5 and, according to the petitioner, respondent No.5 started interfering with her peaceful possession and also caused obstruction in the supply of water and electricity to the portion occupied by the petitioner.

5. Learned counsel for the petitioner has submitted that in order to

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obtain an independent electricity connection, the petitioner submitted an application before the competent authority and pursuant thereto, a temporary electricity connection was provided to her on 20.08.2025 for domestic purposes. The petitioner thereafter regularly deposited the electricity charges.

6. It was further submitted that respondent No.5 thereafter submitted an application before respondent Nos.2 to 4 seeking disconnection of the electricity connection provided to the petitioner on the allegation that the connection had been obtained by suppressing certain facts and in violation of the terms and conditions of the connection. Acting upon the said complaint, the respondent authorities disconnected the domestic electricity connection of the petitioner on 27.08.2025.

7. It was further submitted that thereafter the petitioner submitted an application dated 29.08.2025 before the concerned authorities seeking fresh electricity connection in respect of the premises in which she is residing and occupying. It is submitted that the petitioner is in settled possession of the premises pursuant to the compromise arrived at between the parties and the earlier electricity connection had also been granted by the respondent authorities after due verification. Learned counsel for the petitioner has further submitted that the petitioner has also applied for a water connection and the same was provided to her on 08.12.2025 at the very same address for domestic use.

8. It was further submitted that the petitioner has also been subjected to litigation initiated by respondent No.5 under Sections 22 and 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. It is also

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submitted that the petitioner had approached the Consumer Forum against the disconnection of the temporary electricity connection; however, the said proceedings were dismissed and the petitioner was not treated as a consumer. Learned counsel for the petitioner submits that despite the petitioner being in occupation and possession of the premises and despite the fact that a temporary electricity connection had earlier been granted to her, no electricity connection has been provided to her thereafter and the petitioner is continuing to suffer on account of non-availability of electricity.

9. It is further submitted that the petitioner is residing in the premises along with her children, who are studying in Classes IX and X, and they are facing serious difficulty in pursuing their studies in the absence of electricity. It is submitted that the petitioner had deposited the requisite amount, including an amount of Rs.7,621/- at the time of obtaining the temporary connection, and there were no electricity dues payable by the petitioner on the date when the connection was disconnected.

10. It is further submitted that the petitioner had earlier approached this Court and pursuant to the order dated 21.04.2026, the petitioner submitted a fresh representation seeking reconnection of the domestic electricity connection, but the respondent authorities have not taken any effective steps for restoring the electricity connection. It is submitted that the respondent authorities cannot deny electricity connection merely because respondent No.5 has raised a dispute regarding the petitioner's share or right in the property.

11. It was further submitted that by virtue of Section 43 of the

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Electricity Act, 2003, the distribution licensee is mandated to release the connection in favour of the owner or 'occupier' The obligation on the distribution licensee is universal and subject to the petitioner willing to pay the statutory charges as contemplated under Sections 45 to 47 of the Electricity Act, 2003 and the petitioner had always been ready and willing to comply with the said provisions but due to the reason that the officials of the respondent Electricity Department were conniving with respondent No.5, they have not released the electricity connection.

12. Learned counsel for the petitioner has also placed reliance upon the order dated 11.02.2025 passed by this Court, filed as Annexure P-8, and submits that this Court has considered the grievance of persons seeking electricity connection and has directed the authorities to consider the application for electricity connection in accordance with law.

13. On the basis of the aforesaid submissions, it was prayed that the present petition be allowed and directions be issued to the respondent/department to restore the electricity connection of the petitioner immediately.

14. Per contra, learned counsel appearing for the respondents has submitted that the electricity connection cannot be released in favour of the petitioner unless she establishes her right over the premises in question and complies with the applicable rules and conditions. It is submitted that respondent No.5 has raised a dispute with regard to the petitioner's right and share in the property and, therefore, the electricity authorities have acted upon the complaint made before them.

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15. Heard learned counsel for the parties and perused the record.

16. From perusal of the record, it appears that the petitioner claims her right and possession over the premises in question on the basis of the compromise entered into between the parties in the civil proceedings. Respondent No.5 was admittedly a party to the said proceedings and the petitioner has placed on record the compromise application filed under Order XXIII Rule 3 of the Code of Civil Procedure along with the relevant order-sheet. The petitioner has also placed on record documents showing her possession and residence at the premises in question.

17. It is also not in dispute that the respondent authorities had earlier provided a temporary electricity connection to the petitioner on 20.08.2025 for domestic purposes. The petitioner has placed on record the electricity bill issued pursuant to the said connection and has stated that the requisite charges were duly deposited by her. The said connection was subsequently disconnected on 27.08.2025 pursuant to the complaint submitted by respondent No.5.

18. In the facts of the present case, the dispute between the petitioner and respondent No.5 essentially relates to the share, right and possession in respect of the premises in question. The electricity distribution authorities, while considering an application for electricity connection, are not required to adjudicate upon complicated questions relating to title, partition or inter se civil rights of the parties.

19. It would be necessary to refer to the statutory provision. Section 43 of the Electricity Act, 2003 reads thus:-

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Section 43. (Duty to supply on request): -

(1) Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply: Provided that where such supply requires extension of distribution mains, or commissioning of new sub- stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

(2) Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

(3) Explanation.- For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.

(4) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(5) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."

20. In order to better understand the legislative intent, it would be necessary to refer to the provision as it stood in the Electricity Act, 1910. prior to the coming into force of the Electricity Act, 2003. The reievant provision contained under Section 12(6) of the Electricity Act, 1910 is extracted as under:-

"12. Provision as to the opening and breaking up of streets, railways and tramways.

(6) In this section, "occupier" of any building or land means a person in lawful occupation of that building or land."

21. A comparative reading of both the provisions shows that there is a conscious departure by the Parliament and the word "lawful" specified in the Electricity Act, 1910, has been dropped by the Parliament in the Electricity Act of 2003. The deletion has to be viewed as a conscious act of the Parliament and not just an omission.

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22. Occupier has been defined in Section 12 (6) of the Indian Electricity Act, 1910 which reads thus:-

> *"In this Section 'Occupier' of any building or land means a person in lawful occupation of that building of land."*

23. The said issue was also addressed in the matter of ***Fashion Proprietor Aswani Kumar Maity vs. West Bengal Electricity Distribution Co. Ltd. And Ors.*** reported in ***AIR 2009 Cal. 87***. The relevant extract of the said judgment is reproduced hereinbelow:-

> *"2. The legal question that arises is as to whether the petitioner is entitled to supply of electricity at the premises despite the dispute and despite it being unclear as to whether the petitioner is in lawful occupation of the premises. A fair concession has, however, been made by the private respondent in suggesting that the writ petitioner is not a rank trespasser in the sense that he entered into possession with the authority of the landlord but has now overstayed the welcome and does not have any authority to remain in possession.*
> *3. The petitioner refers to the change in the law, of the departure from the concept of "lawful occupation" in the Electricity Act of 1910 to the concept of occupier simpliciter in the Electricity Act of 2003. The petitioner suggests that the earlier judgments would have no application upon the change in law and it is a conscious decision of the legislature to drop the word "lawful" from the comparable provision.*
> *13. Section 43 of the Act makes it incumbent on a licensee to supply electricity to an owner or occupier of any premises. It is, probably, mappropriate to compare Section 43 of the present Act with Section 12 (6) of the previous Act. The definition of occupier" in Section 12 (6) of the previous Act was restricted to Section 12 of the said Act.*
> *Section 12 of the previous Act operated in a different field and is not, comparable with Section 43 of the present Act.*
> *Sub-section (6) was introduced into the 1910 Act by an amendment of 1959.*
> *"12 (6) In this section, "occupier" of any building or land means a person in lawful occupation of that building or land."*
> *14. If the law of the land provides that a person in possession of any premises may not be dispossessed therefrom except in accordance with law, it is implicat that the possession of the person is protected nil such time that an appropriate forum holds otherwise and the person is removed from the premises under due process of law. It would then defy reason to suggest that such person can continue to be in possession but he denied an essential utility as electricity which is within the broad sweep of the right to life guaranteed under Article 21 of the Constitution.*
> *15. The writ petition succeeds. The heensee will provide a new electricity connection to the writ petitioner upon the writ petitioner complying with all requisite formalities including paying the relevant charges. The connection will be made available within two weeks from the date of*

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completion of all formalities by the petitioner:"

24. Furthermore, the High Court of Gujarat has held in the matter of ***Yogesh Lakhmanbhai Chovatiya versus PGVCL Through the Deputy Engineer,*** passed in R/Special Civil Application No.6281 of 2021, decided on 02.08.2022 as under:-

> *"9. Thus, the petitioners, who are the occupiers of the land, cannot be denied the electricity connection only because dispute with regard to decision of the land in question is pending. The Division Bench has observed that the company cannot decide the disputed question of right and title and the ownership or right of occupancy has no nexus with grant of electrical connection to a consumer.*
> *10. Under the circumstances, the respondent Company is directed to supply electricity connection to the petitioners in the premises or in the property, where they are presently staying and occupying the same."*

25. After hearing counsel for the parties and going through the record made available on file as well as following the judgments cited above, this Court finds that the petitioner has the right to claim electricity connection as an **'Occupier'** under Section 43 of the Electricity Act 2003. However, this Court makes it very clear that whatever observations have been made in this order are only to be construed and interpreted in the context of the petitioner's right to have electricity so long as she remains in possession of the property in question because no-one, in the modern days can survive without electricity, and therefore, the right to electricity is also a right to life and liberty in terms of Article 21 of the Constitution of India.

26. Under the circumstances, the present petition is **allowed** and the respondent/Company is directed to supply electricity connection to the petitioner in the premises, where she is presently staying and occupying the same. The present petition is accordingly allowed. The respondents are

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directed to release the electricity connection within a period of 07 days to the petitioner in the premises, where she is presently staying and occupying the same as per mandate of Section 43 of the Electricity Act, 2003 upon receipt of copy of this order subject to the petitioner complying with the other norms.

27. With the aforesaid observation and directions, the present petition is allowed and **disposed of**.

(MILIND RAMESH PHADKE)
JUDGE

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