

APHC010023412026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3209]

TUESDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No: 2270 of 2026

Between:

1. SHAIK SHAJAHAN BEE ALIAS SHAJAHAN ALIAS SHAJAHAN,, W/O. LATE SHAKSHAVALI, AGED ABOUT 62 YEARS, HOTEL BUSINESS, R/O. H.NO. 28-761-A10 AND H.NO. 28-761-C, N.G.OS COLONY, NANDAYAL TOWN AND MANDAL, NANDAYAL DISTRICT. (ERSTWHILE KURNOOL DISTRICT)

...PETITIONER

AND

1. THE ASSISTANT EXECUTIVE ENGINEER OPERATIONS, APSPDCL, DISTRIBUTION - II SECTION NANDYAL TOWN AND DISTRICT - 518 501
2. THE EXECUTIVE ENGINEER OPERATIONS, APSPDCL, NANDYAL TOWN AND DISTRICT - 518 501
3. THE DEPUTY EXECUTIVE ENGINEER OPERATIONS, APSPDCL, NANDYAL TOWN AND DISTRICT - 518 501
4. THE SUPERINTENDING ENGINEER OPERATIONS APSPDCL, NANDYAL TOWN AND DISTRICT -518501
5. THE ANDHRA PRADESH SOUTHERN POWER DISTRIBUTION COMPANY LTD, CORPORATE OFFICE, D.NO. 19-13-65/A, SRINIVASAPURAM, THIRUCHANUR ROAD, TIRUPATHI TOWN AND DISTRICT, - 518 501 ANDHRA PRADESH. REP. BY ITS CHIEF GENERAL MANAGER

6.THE STATE OF AP, REP BY ITS PRINCIPAL SECRETARY, ENERGY DEPARTMENT SECRETARIAT BUILDINGS, VELAGAPUDI GUNTUR DISTRICT. 522238

7.SHAIK ABDUL SARDAR, S/O, S. MAHABOOSABEB, AGED ABOUT 59 YEARS, R/O H.NO. 29-332-27-1, TEKKE, NANDYAL TOWN AND MANDAL, NANDYAL DISTRICT,(ERSTWHILE KURNOOL DISTRICT). 518501

...RESPONDENT(S):

Counsel for the Petitioner:

1.Mr.G.SRAVAN KUMAR

Counsel for the Respondent(S):

1.Mr.VENKATA RAMA RAO KOTA, SC FOR APSPDCL

2.GP FOR ENERGY

3.Mr.V NITESH

The Court made the following order:

Heard learned counsel for the petitioner. Also heard Mr.K.Ashok, learned counsel representing the Standing Counsel for APSPDCL for respondents 1 to 5 and Mr.V.Nitish, learned counsel for the 7th respondent.

2. The brief facts of the case, for better appreciation, may be narrated hereunder:

The petitioner purchased an extent of Ac.0.01 $\frac{1}{4}$ cents in Survey No.418/1B pyki through a Registered Sale Deed dated 19.06.2000, constructed a building at N.G.Os colony, Nandyal Town and the Municipality allotted Door Numbers for commercial and domestic purposes respectively. The petitioner obtained two electricity connections i.e., commercial service No.8431205031562 and domestic service No.8431205038915. Taking advantage of a Mortgage Deed executed by the petitioner towards the loan for family necessities and to run the hotel, the 7th respondent played fraud and filed O.S.No.586 of 2018 on the file of the Court of Principal Civil Judge (Junior Division), Nandyal against the petitioner for the relief of delivery of vacant possession of the suit schedule property and for payment of alleged arrears of lease amount. The 7th respondent after obtaining an *ex parte* decree, filed E.P.No.1 of 2020 in the said suit for eviction of the petitioner / defendant from the petition schedule building and delivery of vacant possession. The petitioner seeking to set aside the *ex parte* decree, filed I.A.No.950 of 2021 under Order IX Rule 13 of Code of Civil Procedure along with I.A.No.949 of 2021 seeking to condone the delay in filing the petition to

set aside the *ex parte* decree. The same are pending and the petitioner filed a separate suit O.S.No.623 of 2018 on the file of the Court of Principal Civil Judge (Junior Division), Nandyal against the 7th respondent for declaration of title. The 7th respondent is contesting the suit by filing a written statement.

3. While that being the position, the learned counsel for the petitioner submits that the 7th respondent approached the DISCOM authorities and at his instance, the power supply to the service connection in question was disconnected on 27.11.2025. He submits that on a representation made by the petitioner referring to the civil disputes, pending in the Civil Court against the 7th respondent, the power supply was restored on 28.11.2025 by reinstalling two smart meters which were removed. He submits that in view of the attempt made by the DISCOM authorities to disconnect the service connections to the petitioner's house and hotel on 29.12.2025, the petitioner got issued a legal notice dated 29.12.2025 and without responding to the same, the 1st respondent issued a Notice dated 30.12.2025 stating that the 7th respondent made an application for disconnection of the above said connections and called upon the petitioner to submit legal documents or court stay order justifying why the supply should not be disconnected. He submits that thereafter the power supply was disconnected causing serious prejudice, irreparable loss and great hardship to the petitioner. He submits that the action of the respondent-authorities in disconnecting the power supply and removing the two smart meters when the petitioner is in possession of the subject matter premises, which is being used for domestic and commercial

purposes, is unjust, arbitrary and violative of rights of the petitioner guaranteed under Articles 19 and 21 of the Constitution of India.

4. The learned counsel further submits that it is not the case of the respondent-DISCOM authorities that the petitioner has defaulted in payment of bills and that the service connections were obtained unauthorizedly. He submits that as the civil litigation has not attained finality, the 7th respondent only with a view to exert pressure and compel the petitioner to vacate the subject matter premises, had ingeniously got the power supply disconnected. He submits that so long as the petitioner is in possession of the subject matter property, the power supply has to be continued, irrespective of the request made by the 7th respondent. The learned counsel also places reliance on the decision of a learned Judge of the High Court of Delhi in W.P.(C) No.18953 of 2025 dated 15.12.2025. The learned counsel also submits that unless the power supply is directed to be restored by declaring the action of the respondent-DISCOM authorities as arbitrary, the petitioner's rights will be jeopardized. Making the said submissions, the learned counsel seeks appropriate reliefs as prayed for.

5. On the other hand, the learned counsel representing the DISCOM authorities made submissions with reference to the averments made in the counter-affidavit and sought to justify the action in disconnecting the supply to the service connections referred to above. He submits that action in respect of subject matter connections was taken in the routine course of official duties and in compliance with the Electricity Supply Code. He submits that before

resorting to the action of disconnection, an opportunity was afforded to the petitioner and further that the DISCOM authorities, obtained legal opinion. He also contends that the petitioner has an effective and efficacious alternative remedy under the provisions of the Electricity Act, 2003 and the relevant Regulations, which provides for redressal grievance mechanism through Consumer Grievance Redressal Forum. He submits that the present writ petition is, therefore, not maintainable and liable to be dismissed.

6. The learned counsel for the 7th respondent, who filed a separate counter-affidavit sought to impress upon the Court that in the light of the Judgment and Decree in O.S.No.623 of 2018, the 7th respondent being the owner of the subject matter property approached the respondent-DISCOM authorities for disconnection of power supply to the service connections in question. He submits that the 7th respondent is paying the property taxes regularly to the Nandyal Municipality and the relevant municipal record reflects the 7th respondent's name in respect of the subject matter property. He also submits that in fact, the service connection in question stands in the name of the 7th respondent. He submits that the petitioner only with a view to harass the 7th respondent and continue frivolous litigation is not vacating the subject matter property. Be that as it may. He submits that the DISCOM-authorities after issuing due notice and as the petitioner failed to respond to the same, disconnected the power supply and therefore, there is no violation of the principles of natural justice, much less the relevant Terms and Conditions of supply. He further submits that if the power supply to the service connections

in question is restored and in the event of the petitioner vacating the premises in question in the light of the decree granted by the competent Civil Court without paying the regular current consumption charges, the 7th respondent would be fastened with liability and the respondent-DISCOM authorities would insist payment of the same for continuation of power supply. To avoid such a situation, the 7th respondent was therefore right in protecting his interest and the respondent-DISCOM authorities were within their powers in disconnecting the power supply at the request made by the 7th respondent. He submits that the writ petition is devoid of merits and the same is liable to be dismissed.

7. This Court has considered the submissions made and perused the material on record.

8. At the outset, it may be pertinent to state that though the learned counsel for the petitioner and the learned counsel for the 7th respondent made submissions touching upon the case of the respective parties in the civil litigation, this Court cannot delve much upon the same. Suffice to state that the petitioner herein suffered a decree, but the application seeking to set aside an *ex parte* decree is pending. Till the petitioner / occupant is evicted and possession pursuant to the decree is taken over, in accordance with the Law, she is entitled for the supply of electricity. It is not in dispute that the petitioner is in possession of the subject matter property, which is being used for domestic (residential) and commercial (Hotel) and the electricity is being supplied through separate service connections Nos.8431202031562 and 8431205238915, irrespective of the fact that the said service connections

stands in the name of the 7th respondent. It is also not in dispute that the disconnection was effected at the request of the 7th respondent, stated to be the registered owner and after due notice. Therefore, the procedure followed by the DISCOM authorities for disconnection of power supply to the service connections, cannot be found fault with. At the same time, the civil litigation between the parties cannot be lost sight of and mere pendency of a civil litigation cannot be a ground, in the absence of any order restraining / continuation of power supply to the consumer, it cannot be denied. If the decree holder / registered owner is armed with a decree, the same has to be executed in accordance with the Law and under guise of the same, no other actions shall be adopted to drive the occupant to vacate the premises, much less by getting the power supply disconnected.

9. In the decision relied on by the learned counsel for the petitioner, more or less in similar circumstances, the learned Judge of High Court of Delhi opined that the petitioner therein is in possession of the property in question lawfully and till the time, there is any eviction order passed against the petitioner by a Court of law, the possession of the petitioner cannot be said to be unlawful. At Para No.10, it was observed that the electricity is a basic necessity and an integral part of right to life under Article 21 of the Constitution of India and as long as the petitioner is in possession of the property in question, he cannot be deprived of the same.

10. It is no longer *res integra* that electricity is a basic amenity and the same cannot be deprived. In **Dilip (Dead) through LRs., v. Satish and Others**¹, the Hon'ble Supreme Court held as follows:

“It is now well settled proposition of law that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure / refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.”

11. A three Judge Bench of the Hon'ble Supreme Court in **K.C.Ninan v. Kerala State Electricity Board & Ors.**,² *inter alia* opined that the duty to supply of electricity under Section 43 of the Electricity Act, 2003 is not absolute and is subject to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity. It was also held that a duty to supply Electricity under Section 43 is with respect to the owner or occupier of the premises, that 2003 Act contemplates a synergy between a consumer and premises. Further, that under Section 43, when Electricity is supplied, the owner or occupier becomes a consumer only with respect to those particular premises for which electricity is sought and provided for by the Electric Utilities.

12. In **Chandu Khamaru v. Nayan Malik and Others**³, the Hon'ble Apex Court opined that pending resolution of the civil dispute between the parties, the supply of electricity cannot be denied.

¹ 2022 Live Law (SC) 570

² 2023 14 SCC 431

³ (2011) 12 SCC 314

13. A Division Bench of the High Court of Telangana in its Judgment dated 20.10.2022 in W.A.No.676 of 2022 opined that till it is proved that the respondents / writ petitioners are land grabbers and evicted in accordance with Law, they are entitled to water and electricity to live as human beings.

14. Keeping in view of the above referred judgments, at this juncture, it is pertinent to refer to the apprehension of the 7th respondent that if the petitioner / J.Dr., commits default in payment of electricity, the 7th respondent would be mulcted with the arrears and unless the same are cleared, power supply would not be continued and that apart any request for new connection would also be not considered. The apprehension is well founded. Therefore, a balance has to be struck keeping in view the interest of the existing consumer of electricity / petitioner who suffered decree till the same is executed, in accordance with the law and duly evicted from the subject matter premises. Though, there is no violation of principles of natural justice, the disconnection of supply, when the petitioner is still in possession of the subject matter premises, even at the instance of the 7th respondent / decree holder cannot be sustained in the light of the decisions cited above. Further, alternative remedy, in a case of this nature, cannot be treated as an efficacious remedy.

15. Therefore, this Court is inclined to pass the following order:

- 1) The petitioner is at liberty to make appropriate application / applications for release of supply to the premises in question;

- 2) On receipt of the such application, the concerned DISCOM-authorities shall examine the same and release the supply within one week thereafter, depending upon the nature of usage i.e., domestic / commercial without insisting for NOC from the 7th respondent;
- 3) As a condition precedent for release of supply, the petitioner shall deposit six months average consumption charges prior to the date of disconnection;
- 4) The petitioner shall pay the current consumption charges regularly and in the event of committing any default in payment of the monthly current consumption charges continuously for two months, shall forego the amount deposited;
- 5) The petitioner would be entitled to reconnection of power supply only on fresh deposit of six months average consumption charges;
- 6) This order is passed without prejudice to the rights and contentions of the respective parties in the civil litigation and the condition of deposit is deemed appropriate as furnishing of indemnity bond may not be sufficient and any proceedings on the basis of the same would not end up early and have impact on the finances and infrastructure activities of the Distribution Company.

16. As this Court has considered the matter from the perspective of usage of electricity by the petitioner, who is in occupation of the subject matter premises, the competent Courts seized of the civil litigation shall deal with the

same, in accordance with the law, without being influenced by any of the observations or conclusions arrived at in the present writ petition.

17. The writ petition is allowed accordingly with the directions indicated above. No costs. Consequently, all pending applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

Dt.24.03.2026
BLV

THE HONOURABLE SRI JUSTICE NINALA JAYASURYA

Writ Petition No: 2270 of 2026

Date:24.03.2026

BLV