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**AJANTHA KUMARA**

**Vs.**

**CEYLON ELECTRICITY BOARD AND OTHERS**

COURT OF APPEAL  
J. DE SILVA, J.  
FERNANDO, J.  
CA/WRIT/100/2017  
MARCH 19, 2019

**Supply of electricity—Section 25(1) of Electricity Act, No. 20 of 2009— Right of owner or occupier to obtain electricity supply**

The petitioner made an application to the Ceylon Electricity Board to obtain a supply of electricity, having satisfied all the requirements and having made all necessary payments. The Divisional Secretary carrying out its delegated authority on behalf of the Public Utilities Commission of Sri Lanka approved the request for a supply of electricity. At the point of erection of the pylons, a dispute was raised by the general railways contending that the portion of land was a railway reservation and not owned by the petitioner. As a result of the said dispute, the Ceylon

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Electricity Board suspended the process of supplying electricity to the petitioner. The petitioner instituted these proceedings seeking a writ of mandamus against the Ceylon Electricity Board.

**Held:**

1. There was no evidence to suggest that the petitioner was a squatter or an unlawful occupier of the premises and therefore the petitioner is qualified to make an application for the supply of electricity for the purposes of section 25(1) of the Electricity Act, No. 20 of 2009.
2. The Ceylon Electricity Board is under a statutory duty to supply electricity to the petitioner, as the petitioner has complied with the requirements under the Act.
3. Electricity is no longer a luxury but a fundamental requirement which is necessary for comfortable living, and the Ceylon Electricity Board is obliged to supply electricity provided all the legal requirements are satisfied.

**Cases referred to:**

1. Municipal Council of Badulla v. Ratnayake (1978- 79] 2 Sri LR 141
2. G. C. A. Corea v. Urban Council Kotte and others 62 NLR 60
3. Gunaratne and another v. Ceylon Electricity Board and others [1991] 1 Sri LR 239

APPLICATION for Writ of Mandamus.

Nimal Jayasinghe with Nivanthi Thilakaratne for the Petitioner.

Maithree Amerasinghe, S. C., for the 1st, 9th and 12th Respondents.

*cur. adv. vult.*

June 7, 2019

**J. DE SILVA, J.**

The Petitioner is the donee of the land morefully described in the deed of gift No. 3734 dated 30. 07. 2016 (P1). The Petitioner submitted an application and paid the service connection fees to the 1st Respondent to obtain an electricity connection to the house situated on the said land (P4). He further paid Rs. 15, 960/= as the security deposit and service connection charge to the 1st Respondent (P5).

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The 11th Respondent, to whom the power has been delegated in terms of the Sri Lanka Electricity (Amendment) Act No. 31 of 2013 to hold inquiries regarding disputes that may arise in connection with the supply of electricity, held an inquiry into the application of the Petitioner and by letter dated July 2016 (P6) recommended to supply electricity to the Petitioner's premises.

The 11th Respondent submitted his recommendations to the Public Utilities Commission as well for the supply of electricity to the Petitioner's premises which was approved (P7). However, the Petitioner claims that he has not yet been supplied with electricity and moves that a writ of mandamus is issued compelling the 1st to 9th Respondents to supply electricity to the Petitioner's premises.

The 1st to 9th Respondents do not dispute the material facts. They explain the circumstances leading to the delay in supplying electricity to the premises of the Petitioner and conclude by stating that when the 1st Respondent was attempting to install pylons in the proximity of the Petitioner's premises, the Railways Department had objected to drawing the line across the identified route to the premises of the Petitioner claiming that "the venue of the Petitioner forms part of the railway reservation". They state further that the 1st Respondent has temporarily suspended the process until the matter has been resolved between the Petitioner and the Railways Department. Section 25(1) of the Sri Lanka Electricity Act No. 20 of 2009 states that a distribution licensee shall on any request by the owner or occupier of any premises within the Authorized Area of the licensee connect, supply and maintain the supply of electricity to those premises and connect, supply and maintain the supply of electricity to those premises. The word "occupier" in an act *pari materia*, namely section 33(1) of the Electricity Act, No. 19 of 1950, was interpreted by Vythialingam J. in *Municipal Council of Badulla v. Ratnayake* to mean a lawful occupier and not, for instance, a mere squatter. Hence if there was any evidence that the Petitioner is in fact a squatter on the premises to which the electricity is requested, this Court would have had to consider whether a squatter or an unauthorized occupant is entitled to obtain an electricity connection to the land on which he is a squatter or an unauthorized occupant.

However, in the instant case the Petitioner has produced a certified copy of the order made in *M. C. Colombo Case No. D/13210/5/14* where the General Manager Railways instituted proceedings in terms of the State CA *Ajantha Kumara v. Ceylon Electricity Board and others* (J. De Silva, J.)

Lands (Recovery of Possession) Act against the donor of P1. The said order indicates that the application of the General Manager Railways was dismissed. There is no material before Court on whether any revision application was preferred against the said dismissal.

In the aforesaid circumstances there is no evidence before Court to establish that the Petitioner is a squatter or an unauthorized occupant on the land to which the electricity connection is sought.

I see no valid legal reason for not providing an electricity connection to the Petition to the premises described above.

Electricity is no longer a luxury but an essential matter for every citizen to lead a comfortable life. In terms of Article 27(2)(c) of the Constitution the State is pledged to establish a Democratic Socialist Society which includes the objectives of the realization by all citizens of an adequate standard of living for themselves and their families and the continuous improvement of living conditions. The 1st Respondent is under a statutory duty to provide an electricity connection to the owner or occupier of any premises within its Authorized Area provided all the legal requirements are satisfied. Failure to perform the statutory duty of supplying electricity can be compelled by a writ of mandamus. [G. C. A. Corea v. The Urban Council Kotte and others, 2 Gunaratne and Another v. Ceylon Electricity Board and others<sup>3</sup>].

Accordingly, this Court issues a writ of mandamus compelling the 1st Respondent to supply electricity to the Petitioner's premises forthwith. The 1st Respondent will pay the Petitioner a sum of Rs. 50,000/= as costs of this case.

**FERNANDO, J.** - I agree.

*Application allowed.*

*Judgment by: Janak De Silva, J.*

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