

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20<sup>th</sup> DAY OF NOVEMBER, 2017

BEFORE

THE HON'BLE Dr.JUSTICE VINEET KOTHARI

**WRIT PETITION No.48006/2017 (GM-KEB)**

**BETWEEN:**

P.K.UMMER KUTTI HAJI  
S/O LATE MOHAMMAD KUTTI  
AGED ABOUT 64 YEARS  
R/AT KABAKA HOUSE  
KABAKA VILLAGE  
BANTWAL TALUK  
D.K. – 574 211.

...PETITIONER

**(BY SRI G.H.RAVIKUMAR, ADVOCATE FOR  
SRI B.S.SACHIN, ADVOCATE)**

**AND:**

1. ASSISTANT EXECUTIVE ENGINEER (ELE)  
THE MANGALORE ELECTRICITY SUPPLY CO. LTD.,  
(MESCOM), VITTLA,  
BANTWAL TALUK  
D.K.DISTRICT – 574 211.

2. EXECUTIVE ENGINEER (ELE)  
THE MANGALORE ELECTRICITY SUPPLY CO. LTD.,  
(MESCOM), BANTWAL  
B.C.ROAD  
MANGALORE  
D.K.DISTRICT – 574 211.

...RESPONDENTS

**(BY SRI H.V.DEVARAJU, ADVOCATE)**

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE RESPONDENTS TO GIVE ELECTRICITY CONNECTION IN RESPECT OF UNIT/PLANT/MACHINERY PROPERTY BEARING

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SY.NO.58/2 OF KULA VILLAGE, BANTWAL TALUK VIDE ANNEX-D AND E.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Mr.G.H.Ravikumar, Adv. for  
Mr.B.S.Sachin, Adv., for Petitioner.  
Mr.H.V.Devaraju, Adv. for Respondent.

The petitioner Sri.P.K.Ummer Kutti Haji has filed this petition in this Court against the respondents MESCOM for not considering his representation and giving the power connection to his installation for Jelly Crushing Plant in the schedule property.

2. Learned counsel for the petitioner has drawn the attention of the court towards the fact that a private person Aboobaker who has nothing to do with the schedule property of the petitioner in Sy.No.58/2, but he has filed a civil suit for partition in **O.S.No.412/2017** in respect of another Sy.No.58/3 and

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upon his objection, the respondents MESCOM is not considering the representation of the petitioner for release of power connection to Sy.No.58/2 in Kula village, Bantwal Taluk.

3. Learned counsel for the respondents-MESCOM has drawn the attention of the court towards condition Nos.4.02 and 4.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and submitted before the court that once the proof of ownership or occupation is submitted by the applicant and prescribed fees is paid, the respondents-MESCOM is bound to consider such application. However, if the service line has to pass through the property of some other person, then consent of the owner of the property has to be furnished as per clause 4.03 (ii) of the General Conditions. It is not clear from the facts stated in the writ petition or in the

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representation filed by the petitioner, whether the service line would provide the power supply to the petitioner of Sy.No.58/2, such service line has to pass through Sy.no.58/3 also or not and whether the objection of the said third party Aboobaker who is not impleaded as respondent in the present petition is justified or not.

4. In the absence of such lack of clarity on facts, the petitioner should make a clear representation to the respondents-MESCOM in this regard and if the service line to provide power supply to his installation in Sy.No.58/2 has to pass through the disputed land of Sy.No.58/3 of the said Aboobaker, he should obtain the consent of the concerned owner for obtaining such power supply from the respondents-MESCOM. No such mandamus direction at his stage can be given to the respondent-MESCOM and therefore the petition is

Date of order :20.11.2017 in W.P. No.48006/2017.  
P.K.Ummer Kutti Haji  
vs.  
Assistant Executive Engineer and another

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disposed of with a direction to the petitioner to approach the respondents-MESCOM with clear fact and requisite documents and if necessary, with the consent of the owners of the concerned survey number over which the service line may have to pass, to provide power supply to the present petitioner. In accordance with the aforesaid conditions 4.02 and 4.03 of the General Conditions, the petition is accordingly disposed of with no order as to cost.

**Sd/-  
JUDGE**

Dvr: