

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13941 of 2019
and W.M.P.No.14000 of 2019

Jains Pebble Brook Flat Owners Association Phase I
rep. By its Secretary,
having registered office at Jains Pebble Brook,
Sakthi Garden 1st Cross Street, Okkiyam Pettai,
Thoraipakkam, Chennai 600 097. ... Petitioner
Vs.

- 1.The Assistant Executive Engineer,
O&M, Sholinganallur, CEDC South II,
110/33KV Perungudi SS Complex
Perungudi, Chennai 600 096.
- 2.Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO)
rep.by its Chairman,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.
- 3.M/s.Jain Housing
rep.by its Partners
A partnership Firm incorporated under
Companies Act 1956,
having office at MN.11, Somansundaram Streete,
T.Nagar, Chennai 600 017. ... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Calling for the records in relation to the DEMAND made by the 1st Respondent in Letter No. AEE/O and M /Sholinganallur/F.MIS/D.493/2018 dt. 17/12/2018 in respect of Service Connection No.214-134-307 and quash the same as illegal.

For Petitioner	: Ms.Rohini Ravikumar
For RR1 & 2	: Mr.L.Jaivenkatesh
	Standing Counsel (TNEB)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to remove the transformer placed in the petitioner Patta land bearing Survey No. 104/ 7A2, to an extent of 0.10 Cents situated at Kakkadasam Village, Denkanikottai Taluk, Krishnagiri District, by considering the petitioners representation dated 04.09.2019.

2. The case of the petitioner is that the petitioner Association is a registered resident welfare association, registered under the provisions of Tamil Nadu Societies Registration Act, 1975, on the file of the Registrar of Societies, Chennai South, Chennai and the members of the Association are the owners and residents of the project in Phase I. The 3rd respondent Builder who is actively involved in execution, development and construction of the apartment complex namely Jains Pebble Brook i.e. The Project, introduced their project as 'Jains Pebble Brook-luxurious lifestyle apartments-Thoraipakkam'' 8.3 acres integrated township with promised amenities and since the 3rd respondent was providing these amenities, the petitioner Association owners were not adverse to invest in the said project, eventhough the same is situated in the outskirts of Chennai. Thereafter the same were not provided as promised by the 3rd respondent builder and an arbitration proceedings is pending between the parties in that regard. Now this Writ Petition purely pertains to the demand made in service connection, connected with Sewage Treatment Plant (STP) in JPBFOA/ phase 1, which is still under the aegis of the 3rd respondent and not handed over to the petitioner Association.

3. The 1st respondent has sent proceedings dated 17.12.2018, addressed to one Mennan, who was the erstwhile promotor of flats and the said notice was received by the petitioner, wherein it was stated that the said service connection is used for commercial activities and thereby instructed to pay the current consumption arrear charges for the period from 09/2017 to 12/2018, amounting to Rs.5,34,316/-. Thereafter, the petitioner immediately sent a letter dated 21.01.2019 by setting out the points for consideration. In spite of the receipt of the said letter / representation, no action or whatsoever has been taken. Aggrieved by the same, the present petition is filed.

4. The learned counsel appearing for the petitioner submitted that the said service connection is utilized by the

petitioner Association only in respect of common amenities which are used only in the domestic common area of the premises and no outsider or any member of the general public have access to these amenities and thereby the said connection is used only for domestic purpose. Therefore, the 1st respondent without proper application of mind has erroneously passed the impugned order, demanding huge amount as arrears and prays for quashment of the impugned order.

5. The learned Standing Counsel appearing for the respondents submitted that in the impugned order no details were provided with regard to the usage of the service connection and hence the matter can be remitted back to the 1st respondent for fresh consideration.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal of the impugned order, it appears that no detail with regard to the usage of the common service connection by the petitioner's Association has been provided and in the absence of specific allegation against the petitioner, passing the impugned order by demanding huge amount as arrears is not sustainable. Therefore, the impugned order warrants interference.

8. In view of the above, this Writ Petition is allowed and the proceedings of the 1st respondent dated 17.12.2018, is set aside and the matter is remanded back to the authority for fresh consideration. The respondent is directed to conduct fresh inspection in the premises as to the usage of the common service connection and pass orders in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Executive Engineer,
O&M, Sholinganallur, CEDC South II,
110/33KV Perungudi SS Complex
Perungudi, Chennai 600 096.

2.The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
(TANGEDCO)
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.

+1cc to Mr.S.Mahesh Kumar, Advocate SR.No.65420
+1cc to Mr.L.Jaivenkatesan, Advocate SR.No.65638

W.P.No.13941 of 2019

SMI(CO)
GN(27/01/2022)