



W.P.No.8459 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.8459 of 2023

and

W.M.P.No.8661 of 2023

1.J.Kamatchi
2.B.C.Vinayagam

...Petitioners

VS.

1.The Assistant Engineer,
Tamil Nadu Electricity,
(TANGEDCO),
No.12, Vellalar Street,
Ayanambakkam, Chennai- 600 095.

2.M/s.Dugar Housing Limited,
Reptd. by its Managing Director,
Padam Dugar,
No.123, Marshalls Road,
Egmore, Chennai – 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to restore the electricity service connection bearing No.094260032073 from the main line



W.P.No.8459 of 2023

to the petitioners' residential flat/premises, situated at Tower -5, Flat 404, Fourth Floor, Sky Dugar Apartments, Ayanambakkam, Rajan Kuppan Salai, Ambattur Taluk, Chennai- 600 095.

For Petitioners : Mr.R.Munuswamy
For Respondents : Mr.L.Jaivenkatesh [for R1]

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus to direct the first respondent to restore the electricity service connection bearing No.094260032073 from the main line to the petitioners' residential flat/premises, situated at Tower -5, Flat 404, Fourth Floor, Sky Dugar Apartments, Ayanambakkam, Rajan Kuppan Salai, Ambattur Taluk, Chennai- 95.

2. Since no adverse order is being passed against the second respondent, notice to the second respondent is dispensed with.

3. It is the case of the petitioners that they are the husband and wife. While so, the petitioners approached the second respondent to purchase an



W.P.No.8459 of 2023

apartment in the Sky Dugar project and paid a sum of Rs.11,00,000/-.

Immediately, the builder issued an allotment letter dated 02.06.2014 in their favour, where under an apartment was allotted in Tower -5, Fourth Floor, Flat 404 with super built-up area including common area approximately measuring an extent of 1658 sq.ft. together with one covered car parking to be specified at the time of handing over possession of the flat. Pursuant to the allotment letter, an agreement for sale of undivided share of land was entered into by the builder with the petitioners on 04.06.2014 for sale of UDS land and simultaneously, a construction agreement dated 04.06.2014 was also entered into and the second respondent promised to hand over the flat on or before 30.09.2015. Having received 90% of the total amount of the flat, the second respondent had not completed the construction of flat. While so, without handing over possession of the flat, the second respondent had sent a letter dated 15.11.2017 demanding the petitioners to pay a sum of Rs.22,56,256/- as due. Thereafter, the second respondent had sent another letter dated 16.05.2019 demanding a sum of Rs.28,21,658/- as due under various heads. Since there were some defects in the flat, the



W.P.No.8459 of 2023

petitioners demanded the second respondent to rectify the same. However, the second respondent had disconnected the electricity from main switch board and also disconnected power backup. Hence, the above writ petition has been filed before this Court for restoration of electricity service connection in their flat.

4. Learned counsel appearing for the petitioners submitted that though the petitioners have paid the entire amount towards the electricity service connection, the second respondent, having received the same yet disconnected the said connection, is not sustainable. He further submits that the first respondent being the appropriate authority to effect electricity service connection, the petitioners have filed the present writ petition seeking a direction to the first respondent to restore the electricity service connection No.094260032073 from the main line to the petitioners residential flat situated in Ambattur Taluk, Chennai.

5. The learned standing counsel appearing for the first respondent



W.P.No.8459 of 2023

submits that the electricity service connection was not disconnected by the electricity Board, as there was some dispute between the petitioners and the second respondent, the electricity service connection was disconnected by the second respondent. He further submits that the issue involved in the present case is purely disputed question of facts and the same cannot be adjudicated under Article 226 of the Constitution of India which also cannot be resolved by the Electricity Board officials as well. Accordingly, he prayed to dismiss the above writ petition.

6. Heard learned counsel appearing on either side and perused the materials placed on record.

7. Admittedly, there was a dispute between the petitioners and the second respondent, due to which the electricity service connection in respect of the petitioners flat was disconnected by the second respondent. As rightly pointed out by the learned standing counsel appearing for the first respondent, the issue involved in the present writ petition pertains to the



W.P.No.8459 of 2023

disputed question of facts and the same cannot be adjudicated under Article 226 of the Constitution of India, which also cannot be decided by the electricity board officials as well. However, there is a remedy available to the petitioners to approach the appropriate forum, without availing such remedy, filing the present writ petition seeking a mere direction to the first respondent to restore the electricity service connection with regard to petitioners residential flat is not sustainable. Hence, the prayer sought for by the petitioners cannot be granted.

8. Accordingly, this writ petition is dismissed with liberty to the petitioners to approach the appropriate forum in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

17.03.2023
(1/2)

RAP
Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No



W.P.No.8459 of 2023

WEB COPY To

The Assistant Engineer,
Tamil Nadu Electricity,
(TANGEDCO),
No.12, Vellalar Street,
Ayanambakkam, Chennai- 600 095.



WEB COPY



W.P.No.8459 of 2023

M.DHANDAPANI, J.

RAP

W.P.No.8459 of 2023

17.03.2023
(1/2)



W.P.No.8459 of 2023

WEB COPY

W.M.P.No.8660 of 2023 in
W.P.No.8459 of 2023

M.DHANDAPANI, J.

This petition is ordered on
payment of single Court fee.

17.03.2023
(2/2)

RAP