

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-1108-2023

Date of decision: 19.01.2023

SUMAN LATA

.....Petitioner

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Mr. N.K. Malhotra, Advocate
for the petitioner.

Mr. Vivek Saini, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of Certiorari for quashing the impugned order dated 23.11.2022 (Annexure P-3) whereby the electricity connection has been stopped in group housing societies as per sale circular No.U-20-2020 since the electricity infrastructure has not been completed by the developer as per the sanctioned electrification plan uptill now.

Counsel for the petitioner contends that the petitioner had purchased a plot in the aforesaid developed licensed colony of private developer at Kundli. He had applied for release of electricity connection on 19.11.2022 and deposited the fee for the same. However, the respondents have declined to releaes the electricity connection for the reasons as aforesaid vide communication dated 23.11.2022. He contends that the petitioner cannot be held liable for any deficiency on

the part of the developer and that the electricity being a primary requirement, the denial thereof violates Article 21 of the Constitution of India.

Notice of motion.

Mr. Vivek Saini, Advocate accepts notice on behalf of the respondents.

Learned counsel appearing on behalf of the respondents submits that the present writ petition is not maintainable at the first instance since the provisions under the Electricity Act, 2003 and the regulations notified by the Haryana Electricity Regulatory Commission provided for efficacious alternative remedy to approach the Consumer Disputes Redressal Forum and the electricity Ombudsman thereafter. He submits that alternative remedies have not been disclosed by the petitioner in the present petition. It is also submitted that developer has indulging in filing the proxy litigation through the consumer despite having failed to provide the electric infrastructure as per the sanctioned plan, thus same cannot be released as the local distribution system is not in accordance with the approved electrification plan.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended the instant petition.

Article 21 of the Constitution of India provides protection of life and personal liberty according to the procedure established by law. Hence, it is a right to be provided as per procedure established by law. Entitlement to electricity is no doubt, accepted and identified as a part of Article 21 of the Constitution of India, however, release of

electricity connection is governed by the provisions of the Electricity Act, 2003 and the regulations notified thereunder by the appropriate Commission as also the procedural sale circular issued by the respective distribution licensee. The conditions necessary for release of electricity connection are required to be fulfilled considering that the principles of strict liability are applicable to the distribution licensee for any loss/damage that may occur as a result of deficient infrastructure.

The petitioner has failed to refer to any provision or evidence to suggest that the infrastructure as is required under the terms of approved electrification plans is in place and the terms and conditions for grant of sanction of the electrification plan already stands fulfilled. Besides, no reference is made to the regulations governing release of electricity connection to the group housing society/colonies developed by private developer. Additionally there is an alternative efficacious remedy available to the petitioner in approaching the Consumer Grievance Redressal Forum as also the Electricity Ombudsman under Section 42(5) and 42(7) of the Electricity Act, 2003 & the regulations framed thereunder.

Taking into consideration the disputed question of fact are involved, the present petition is thus dismissed at this stage. Liberty is however granted to the petitioner to take recourse to the alternative remedy available to him in accordance with law.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 19, 2023

Vishal sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No