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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10068/2024 & CM APPL. 41217/2024**

SH AMIT PODDAR

.....Petitioner

Through: Mr.Kapil Sankhla, Mr.Akhilesh
Aggarwal and Ms.Fagun Sharma,
Advs.

versus

TATA POWER DELHI DISTRIBUTION LIMITED

.....Respondent

Through: Mr.Manish Srivastava with
Mr.Moksh Arora, Advs for TPDDL.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **23.07.2024**

1. The instant petition is filed by the petitioner seeking the following reliefs:-

“a. Issue a WRIT of Mandamus or any other appropriate WRIT, order, or direction in the nature thereof, directing the Respondent to forthwith restore electricity supply to the meter of the Petitioner bearing C.A. No. 6002040 1968;

b. Direct the Respondent to conduct a detailed inspection of the premises bearing House No. 122, 3rd Floor, Block-B, Derawal Nagar City, New Delhi- 110009, and ascertain floor wise electricity meters;

c. Pass any other or further order that this Hon'ble Court deems fit and proper in the interest of justice and as per the facts and circumstances of the present case.”

2. The petitioner is essentially aggrieved by the disconnection of the electricity supply due to the alleged non-payment of the dues. It is the contention of the petitioner that the respondent has wrongly disconnected



electricity supply of the third floor of the property, where the petitioner resides, while the dues are pending with respect to the first-floor meter connection, which belongs to one Sh. Lalit Poddar.

3. Mr. Moksh Arora, learned counsel appearing for the respondent raised the preliminary objection with respect to the entertainability of the writ petition in view of the alternate and efficacious remedy available at the behest of the petitioner under Section 127 of the Electricity Act, 2003 (hereinafter referred to as “Act”). He submitted that all the issues raised in the present petition can be dealt with by the Appellate Authority under Section 127 of the Act. To substantiate his submissions, he places reliance on the decision of this Court in W.P. (C) 7540/2023 titled as ***Sajal Hassan v. Tata Power Delhi Distribution Ltd.***

4. I have thoughtfully considered the submissions advanced by learned counsel appearing for the parties and perused the record.

5. In view of the preliminary objection raised by the learned counsel appearing for the respondent, this Court proceeds to primarily deal with the same.

6. It is a well-settled canon of judicial prudence that the High Courts, while exercising the extraordinary powers under Article 226 of the Constitution of India, may refrain from entertaining the writ petitions where the alternate remedies are not only available but also efficacious. The Supreme Court in the case of ***Radha Krishan Industries v. State of H.P.***¹, has lucidly summarised broad principles to be kept in consideration while exercising the extraordinary writ jurisdiction. The relevant extract of the said decision read as under:-



“27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad [Chand Ratan v. Durga Prasad, (2003) 5 SCC 399] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [Babubhai Muljibhai Patel v. Nandlal Khodidas Barot, (1974) 2 SCC 706] and Rajasthan SEB v. Union of India [Rajasthan SEB v. Union of India, (2008) 5 SCC 632] among other decisions.”

¹ (2021) 6 SCC 771.



7. This Court, while dealing with a similar controversy in the case of **Sajal Hassan (supra)**, dismissed the writ petition in view of the alternate remedy being available to the petitioner. Paragraph nos.6 and 7 of the said decision read as under:-

“6. Coming to the facts of the present case, it is noted that the petitioner has raised challenge to the final assessment order, a reading of which would show that it was preceded by inspection, that was followed by the provisional order of assessment under Section 126(1) of the Act dated 26.12.2022 as well as personal hearing on 13.01.2023 which was duly attended by the petitioner. Later, a Show Cause Notice was issued on 17.02.2023 followed by another opportunity of personal hearing on 01.03.2023, the allegations against the petitioner are that he has been found feeding supply to another distinct and separate portion of the aforesaid property from his own electricity connection. The challenge in the writ petition is only factual. The petitioner has simply denied the allegations and contended that the allegation is not supported by any material document.

7. In the considered opinion of this Court, the petitioner’s case does not fall in exceptional category and is thus dismissed alongwith the pending application with liberty to the petitioner to approach the appellate authority in terms of Section 127 of the Act.”

8. In the present case as well, none of the exigencies as mentioned in the **Radha Krishan Industries (supra)** have been met so as to warrant this Court to exercise the extraordinary powers under Article 226 of the Constitution of India.

9. In view of the aforesaid, the instant petition stands dismissed alongwith pending applications, with liberty reserved in favour of the petitioner to approach the Appellate Authority under Section 127 of the Act or avail any other remedy available as per law.

PURUSHAINDR KUMAR KAURAV, J

JULY 23, 2024/MJ