



W.P.No.12323 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 04.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.12323 of 2025

and

WMP.No.13916 of 2025

1.Yeshwanth T.Badradri
2.P.L.V.Subba Rao

... Petitioners

Vs.

1.Registrar of Societies
Chennai Central
Bharathi Salai
Chennai 600 014.

2.Sun Plaza Owners Association
represented by its Secretary
Having its Office at
No.39, G.N.Chetty Road, Chennai
Nungambakkam Egmore Taluk
Chennai 600 006.

3.M.Chidambaram
4.K.Shanmuganathan
5.K.Nagendra Babu

...Respondents



W.P.No.12323 of 2025

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to

issue a Writ of Mandamus, directing the first respondent to conduct an enquiry into the affairs of the second respondent, particularly, the action of the respondents 3, 4 and 5 in disconnecting Water Supply and denying Car Parking Facilities to the Owners/Tenants of the Commercial Building “Sun Plaza” situated at No.19/39, G.N.Chetty Road, T.Nagar, Chennai-600 006, herein.

For Petitioners : Mr.A.Sikkandar

For Respondents : Mr.R.Sasikumar for R1
Government Advocate

ORDER

This Writ Petition is filed for a Writ of Mandamus directing the first respondent to conduct an enquiry into the affairs of the second respondent particularly the action of the respondents 3, 4 and 5 in disconnecting water supply and denying car parking facilities to the owners/tenants of the commercial building Sun Plaza situated at No.19/39, G.N.Chetty Road T.Nagar, Chennai-600 006.



W.P.No.12323 of 2025

WEB COPY

2. Heard Mr.A.Sikkandar, the learned counsel appearing on behalf of the petitioners and Mr.R.Sasikumar, the learned Government Advocate appearing on behalf the first respondent.

3. In view of the nature of order that is proposed to be passed, this Writ Petition is disposed of in the admission stage without notice to the respondents 2 to 5. It is made clear that this Court is not deciding the *inter se* rights of the petitioners viz-a-vis the respondents 2 to 5.

4. Upon considering the arguments of the learned counsel for the petitioners and the affidavit filed in support of the Writ Petition and the representation that is made by the petitioner, the grievance of the petitioners is that the second respondent claiming itself to be the apartment owners association is proposing now to cut the electricity and water connection in respect of the petitioners and they are also high handedly denying the parking space that is originally allotted to the petitioners. The petitioners dispute the claim of the second respondent with reference to the arrears. It is the claim of



W.P.No.12323 of 2025

WEB COPY

the learned counsel for the petitioners that in view of the judgement of the this Court in ***WP.No.5351 of 2009 (Cosmo Owners Association Vs. the Chennai Metropolitan Water Supply Sewerage Board and another¹*** more specifically the findings in paragraph 29 of the said order, the apartment owners association has no jurisdiction to cut the water supply or electricity connection and the same are basic needs and amenities which are required for any person to reside in the apartment and the apartment owners association can never have the power to cut the same.

5. The learned counsel for the petitioners took this Court through the by-law that is framed in respect of the instant society more specifically to the by-law No.x contained in Page 37 of the said by-laws, which is extracted hereunder for ready reference;

“x) Further to the penalties stated above, the committee shall be entitled to take a decision to deny withdraw restrict all common amenities/utilities such as common lift, water supply, etc., provided to the member by the association until such time the arrears are paid in full by

1(2009) 4 law weekly 348



WEB COPY



W.P.No.12323 of 2025

the member inclusive of the penalty charges that may have become due such amenities shall not be restored until and unless the arrears are cleared in full along with any applicable penalties and/or applicable reconnection charges or necessary steps are taken by such member who is in default, to remove the effect of such breach of obligation xi) The committee is authorized to spend up to Rs.30,000/- (Rupees thirty thousand only) for recurring revenue expenditure at any point of time. In case of any emergency depending on the circumstances warranted, the President and Secretary are jointly authorised to incur the expenditure on behalf of the Association subject to the limit as stated above and report the same at the next committee meeting. xii) If the expenditure works out to be more than Rs.30,000/- and within Rs.50,000/- (rupees fifty thousand only) depending on the circumstances and with prior approval of the committee the expenditure may be incurred and may be placed before the next General meeting for ratification. Xiii) Under any circumstances any revenue expenditure beyond Rs.30,000/- (rupees thirty thousand only) shall require prior approval of the General body by voting of not less than two thirds majority of the members of the association present and voting at the next General Meeting.”



W.P.No.12323 of 2025

6. As a matter of fact, now the provisions of the Tamil Nadu

WEB COPY

Apartment Ownership Act 2022 (Act No.44 of 2022) governs the field and in view of Section 19 of the said Act, the dues if any to the common expenses shall only constitute a charge on the apartment and such a power to withdraw the amenities is not granted.

7. Section 19 of the Act is extracted hereunder for ready reference;

“19. All sums assessed by the association as the share of the common expenses chargeable to any apartment shall, constitute a charge on such apartment, subject to the prior claim, if any,-

(i) of the Government in respect of land revenue or any money recoverable as land revenue;

(ii) of any local authority in respect of tax or other assessment; and

(iii) of the mortgage, in respect of all sums unpaid.”

Therefore the association does not have any jurisdiction whatsoever to cut the water or to deny the car parking.



W.P.No.12323 of 2025

WEB COPY

8. I have considered the said submission.

9. There can be no quarrel over the proposition that the powers of the second respondent association have to be tested with reference to the Apartment Ownership Act, 2022 and the judgment of this Court in *Cosmos Tower Owners Association (cited supra)* has also to be considered. But the question is that if the complaint of the petitioners is that the second respondent association is acting beyond its powers then the remedy has to be granted before which forum. Eventhough the apartment owner association is registered as a society under the Tamil Nadu Societies Registration Act, in my view, under Section 36 of the said Act, eventhough the Registrar can go into the affairs of the society, and whether they are working as per the Rules and consider such forms that are filed before the Registrar, the Registrar cannot injunct the office bearers of the association from doing the particular Acts. It is for the petitioner to approach the Civil Court and get an order of injunction. No doubt the supply of water is an essential. Only considering the fact that the supply of water is an essential thing for the very existence of the



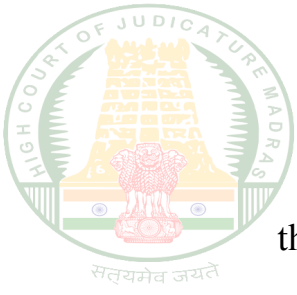
W.P.No.12323 of 2025

WEB COPY

petitioners inside the premises, until the petitioners approach the Civil Court, this Court is inclined to grant interim relief to the petitioners. Therefore the petitioners will be entitled to approach the appropriate Civil Court including the reliefs of declaring the particular provision of the by-law as incorrect and unconstitutional etc and shall seek interim relief as against the respondents 2 to 5. It is for the Civil Court to grant such orders including the interim order. Only to enable the petitioners to approach Civil Court, this Court is granting an interim order restraining the respondents 2 to 5 not to effect the disconnection of water supply for a period of 20 days from the date of receipt of the web copy of the order and it is for the petitioner to work out the remedies in between.

10. Accordingly this Writ Petition is disposed of on the following terms;

(i) Giving liberty to the petitioners and such other apartment owners to approach the appropriate Civil forum as against the respondents 2 to 5 for such remedies as may be permissible under law, this Writ Petition is disposed of. However for a period of 20 days from the date of uploading of



W.P.No.12323 of 2025

WEB COPY

the web copy of this order, the respondents 2 to 5 or their persons are restrained with reference to car parking or withdrawing any other amenities and it is for the petitioners to pray for such interim relief before the appropriate Civil Court and after 20 days, the rights of the parties will be dependent on the order that are passed by the jurisdictional Civil Court in the manner known to law.

(ii) No costs. Consequently, connected Miscellaneous Petition is closed.

04.04.2025
(½)

Neutral Citation : No
dna

Note: Issue order copy on 08.04.2025

To

The Registrar of Societies
Chennai Central
Bharathi Salai
Chennai 600 014.



WEB COPY



W.P.No.12323 of 2025

D.BHARATHA CHAKRAVARTHY, J.
dna

W.P.No.12323 of 2025
and
WMP.No.13916 of 2025
(1/2)

04.04.2025