

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.258 of 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.36988 of 2017 dated 17.11.2017. The appellants herein are the respondents in the writ petition. The respondent herein filed the writ petition seeking a mandamus to declare the action of the appellants herein (respondents in the writ petition), in refusing sanction of the 500 KVA electricity power connection to their firm, on the ground that the dues, payable by the previous owner, should be paid by the petitioner, as illegal, void and against principles of natural justice.

As has been noted in the order under appeal, the respondent-writ petitioner purchased a mineral water bottling plant in a public auction conducted by the Syndicate Bank, after issuing a notice under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act"). On a sale certificate being issued in their favour, the respondent-writ petitioner made an application for sanction of a 500 KVA electricity connection required for running a mineral water bottling unit. On the ground that the previous owner was due electricity charges of more than Rs.50 Lakhs, the Distribution Company refused to grant power connection. Aggrieved thereby, the respondent-writ petitioner invoked the jurisdiction of this Court contending that they were not liable to pay the dues of the previous owner. Placing reliance on the judgment of the Supreme Court, in **M/s. Isha Marbles vs. Bihar State Electricity**

Board¹ and Southern Power Distribution Company of Telangana Limited vs. Gopal Agarwal² the Learned Single Judge held that the respondent-writ petitioner was not liable to pay the electricity charges due from the previous owner.

Sri R.Vinod Reddy, learned Standing Counsel for the appellants, would vehemently contend that, since the respondent-writ petitioner had purchased the property belonging to the previous owner, it is they who are liable for the earlier electricity dues also; and permitting a fresh connection to be given to the respondent-writ petitioner would mean that, whenever there is any threat of recovery, the owner can alienate the property, and avoid payment of the amount due, towards electricity charges, to the distribution companies.

It is not in dispute that the subject property was purchased by the respondent-writ petitioner in a public auction conducted by Syndicate Bank under the provisions of the SARFAESI Act. It is not even the case of the appellant that, by the auction notice, the respondent-writ petitioner was made aware that they would be liable to pay electricity dues of the previous owner. While the appellants are entitled to recover the dues from the previous owner, they cannot refuse to grant a fresh power connection to the respondent-writ petitioner, as he has, admittedly, no connection with the previous owner and had purchased the subject property in a public auction conducted by Syndicate Bank.

In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. The Learned Single Judge followed two judgments of the Supreme Court in granting relief to the respondent-writ petitioner. It cannot, therefore, be said that the order under appeal suffers from a

¹ 1995(2) SCC 648

² Judgment in Civil Appeal No.1918 of 2016

patent illegality necessitating interference under Clause 15 of the Letters Patent.

The Writ Appeal fails and is, accordingly, dismissed. Needless to state that this order shall not disable the appellant from taking necessary steps, in accordance with law, to recover the electricity arrears from the previous owner. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

30th April, 2018
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Date: 30.04.2018