

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.25145 & 30039 of 2015

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COMMON ORDER:

Heard Sri V.Jagapathi, learned counsel for the petitioner and Smt.Jagarlamudi Koteswari Devi, learned Standing Counsel for respondent Nos.1 to 4 and Sri K.Sitaram, learned counsel for 5th respondent.

2. As these Writ Petitions arise between the same parties and in relation to the same issue, they are being disposed of by this common order

3. The parties will be referred to as per their array in W.P.No.25145 of 2015.

4. The petitioner in W.P.No.25145 of 2015 had purchased under a registered sale deed dt.04-11-1999 an extent of 0.27 cts. in Sy. No. 614-A and 614-B at Tadpatri town, Anantapur District for valid consideration from Smt.Kotra Lakshmi Devamma, the mother of 5th respondent. In the property purchased by the petitioner, there was a ginning factory by name M/s.Murali Cotton & Ginning Factory which was being run by the petitioner's vendor. The said factory had a service connection bearing No.7231204006039.

5. The petitioner contends that the said factory had been closed and was not functioning, that after

purchase, he constructed a factory again and also obtained a licence, and he requested the mother of 5th respondent agreeing for transfer of the said service connection in his favour as she did not need and she agreed. Petitioner alleges that 5th respondent's mother had also given an application agreeing for transfer of the said service connection in the name of the petitioner and pursuant thereto, vide a letter dt.01-11-2003, 4th respondent had accorded approval for the change of name transfer in the name of the petitioner. However, by mistake, this change of name was not carried out in the bills issued by the respondent Nos.1 to 4 and they continue to be issued in the name of M/s.Murali Cotton and Ginning Factory and not in the name of the petitioner. It is not disputed that the consumption charges were paid only by the petitioner and not by 5th respondent since more than ten years.

6. The petitioner alleges that the 5th respondent, taking advantage of the fact that the bills were being issued towards electricity consumption in the name of M/s.Murali Cotton and Ginning Factory and not in the name of the petitioner approached the respondents requesting for disconnection of the said service connection claiming that the M/s.Murali Cotton and Ginning Factory belongs to them. The petitioner filed W.P.No.25145 of 2015 alleging that 4th respondent, at the

instance of 5th respondent, is threatening to disconnect the said service connection provided to the petitioner's premises in the land purchased by him and that this was impermissible in law.

7. The 5th respondent contends that M/s.Murali Cotton and Ginning Factory had two partners i.e. mother of 5th respondent and another person, her brother and that after the death of 5th respondent's mother on 01-11-2011, a new firm by name Sri Murali Cotton Press was constituted with 5th respondent and two other persons and carrying on business of the firm. The 5th respondent further contends that what was sold by the mother of 5th respondent to the petitioner was only the land and not the factory located on the land. According to 5th respondent, the petitioner cannot be allowed to enjoy the service connection provided to the factory since the petitioner had not purchased the factory premises from the mother of 5th respondent. He admitted that he gave representations dt.28-07-2015 to 3rd respondent, dt.20-07-2015 to 3rd respondent and one dt.31-08-2015 to Inspector of Factories, Anantapur.

8. The 5th respondent filed W.P.No.30039 of 2015 seeking a direction to the respondents to disconnect the electricity supply connection to the premises in

occupation of the petitioner.

9. The respondent Nos.1 to 4 in the counter affidavit state that they have never threatened to disconnect the power supply to the petitioner and have categorically stated that vide proceedings dt.01-11-2003, 4th respondent had directed the staff to carry out the change/transfer the service connection in the name of the petitioner, that this was done pursuant to the permission given by 2nd respondent, and that the petitioner alone was paying the electricity consumption charges as well as ACD charges regularly from 2003 onwards. The 4th respondent however pleaded that the records in relation to the change of name of the service connection were not readily traceable as some records were burnt in a fire accident and at the time of shifting of the offices of the respondents at an earlier point of time. They have stated that they would take action in accordance with law after obtaining legal opinion.

10. There is also reference to proceedings initiated by the Mandal Legal Services Authority, Tadipatri which, according to both parties, were dropped subsequently.

11. From the facts narrated above, it is clear that the petitioner had purchased under the registered sale deed dt.04-11-1999 from the mother of the petitioner an

extent of Ac.0.27 cts in Sy. No.614-A and 614-B situated in Tadipatri, Anantapur District for valuable consideration. This is not disputed by 5th respondent. What the 5th respondent contends is that only the land was sold and not the factory which is located on the said land. Admittedly 5th respondent had not taken any proceedings in any civil Court from 04-11-1999 till date taking such a stand claiming ownership of the cotton and ginning factory which is located in the land sold by the mother of 5th respondent to the petitioner. It is also not in dispute that the service connection had already been directed by 4th respondent to be transferred in the name of the petitioner by proceeding dt.01-11-2003. It is because of the negligence of the respondent nos.1 to 4 that the bills continued to be issued in the name of M/s.Murali Cotton and Ginning factory and not in the name of the petitioner, but it is not in dispute that it was the petitioner who was paying the consumption charges for the said service connection.

12. In this view of the matter, I am of the opinion that if 5th respondent has any claim in respect of the factory premises located in the land sold to the petitioner by 5th respondent's mother under the sale deed dt.04-11-1999, it is open to 5th respondent to approach competent civil Court but he cannot, sixteen years after the sale has

taken place, demand that the above service connection being used by the petitioner should be disconnected and should be restored to him. Once decision has been taken on 01-11-2003 by 4th respondent to change the name of the service connection in the records of the respondents in the name of the petitioner, it is not open to the respondent Nos.1 to 4 to review the same unilaterally and threaten to disconnect the above service connection either

13. In this view of the matter, W.P.No.25145 of 2015 is allowed and W.P.No.30039 of 2015 is dismissed giving liberty to 5th respondent to take appropriate proceedings in a civil Court, if he is so advised in respect of not only the factory premises which is located in the land sold to the petitioner by the mother of 5th respondent but also in respect of the service connection. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26-11-2015

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