

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.37506 and 39042 OF 2017

COMMON ORDER:

Since the subject matter and parties of the writ petitions is one and the same both the writ petitions are being heard together and disposed of by this common order.

WP.No.37506 OF 2017

This petition is filed for a writ of *Mandamus* declaring the action of the 1st respondent in insisting the petitioner to pay arrears of Electricity dues to the Service Connection No.1096, though the petitioner has purchased only land to an extent of 0.17 cents in D.No.78/A, situated at Etukuru Gram Panchayat, Guntur and Service connection No.1495, as illegal and arbitrary and for a consequential direction to the respondents to transfer the Service Connection No.1113102001495 in favour of petitioner.

WP.No.39042 OF 2017

This petition is filed for a writ of *Mandamus* declaring the action of the respondents 2 and 3 in disconnecting the power supply to the petitioner unit as illegal and arbitrary and for a consequential direction to the respondents to restore the power supply to the petitioner unit.

The petitioner in both the writ petitions is one and the same. The petitioner filed WP.No.37506 of 2017 challenging the proceedings vide LR No.DEE/O/T-1/GNT/AE.Comml/F.Doc/D.No.1309/17, dated 26.09.2017, wherein the respondents stated that the request of the petitioner for transfer of SC.No.

1113102001495, could not be considered till the clearance of the arrears on SC.No.1096 which is in the name of petitioner's vendor J.Ramesh. When the said writ petition was listed on 08.10.2017 this Court heard the matter and adjourned the same for one week at request of the standing counsel for the respondents. In the meanwhile, the respondents disconnected power supply to the petitioner unit. Aggrieved by the same the petitioner filed WP.No.39042 of 2017.

Learned counsel for the petitioner submits that petitioner purchased the property covered by Service Connection No. 1113102001495, as such he is not liable to pay the dues in respect of Service Connection No.1096 payable by the erstwhile owner. He also submits that there are no dues in respect of service connection No. 1113102001495 by the erstwhile owner. In support of his contention he relied on the Judgment rendered by the Apex Court in ***Isha Marbles v. Bihar State Electricity Board and another***¹.

Heard Smt.J.Koteswari Devi, learned Standing Counsel for respondents.

The Apex Court in ***Isha Marbles v. Bihar State Electricity Board and another***, which was relied on by the petitioner, held as follows;

“Where the premises comes to be owned or occupied by the auction-purchaser, when such purchaser seeks supply of electric energy he cannot be called upon to clear the past arrears as a condition precedent to supply. There is no charge over the property. What

¹ (1995) 2 Supreme Court Cases 648

matters is the contract entered into by the erstwhile consumer with the Board. The Board cannot seek the enforcement of contractual liability against the third party. Of course, the bona fides of the sale may not be relevant. The form of requisition relating to the contract is in Annexure VIII prescribed under clause VI of the Schedule to the Electricity Act. They cannot make the auction-purchaser liable. It is true that it was the same premises to which reconnection is to be given. Otherwise, with the change of every ownership new connections have to be issued does not appear to be the correct line of approach as such a situation is brought about by the inaction of the Electricity Board in not recovering the arrears as and when they fall due or not providing itself by adequate deposits. In the present cases what the Corporation sought to recover under Section 29 were the loans advanced by enforcement of a mortgage. Such sale cannot affect the right of the Board to recover its dues. The failure of the Board to recover the dues as and when such dues arose, is a point to be put against it.

Therefore, it is impossible to impose on the purchasers a liability which was not incurred by them. Though the auction-purchasers came to purchase the property after disconnection but they cannot be “consumer or occupier” within the meaning of the above provisions till a contract is entered into.”

In view of the aforesaid Judgment, the petitioner is not liable to pay the dues which are payable by the erstwhile owner J.Ramesh, that too, in respect of Service Connection No.1096. As such, the respondent authorities are directed to consider the representation of the petitioner dated 07.08.2017 seeking transfer of Service Connection No. 1113102001495, in its favour without insisting the petitioner to pay the dues of the erstwhile owner

J.Ramesh in respect of Service Connection No.1096. The respondents are also directed to restore the power supply to the petitioner unit on payment of arrears if any due from the date of said transfer.

Accordingly, both the writ petitions are allowed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, in the writ petitions, shall stand closed.

21.11.2017

Note: Issue CC in three days.

B/o.tk

A.RAJASHEKER REDDY, J

