

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2088 OF 2014

Electricity Department

..... Petitioner

VERSUS

M/s.Arunita Enterprises Pvt. Ltd.

..... Respondent

Mr.S.S.Deshmukh for the Petitioner.

Mr.Vincent Elias Pereira for the Respondent.

CORAM : R.D. DHANUKA, J.

DATE : 8th JANUARY, 2018

P.C.

Rule. Learned counsel appearing for the respondent waives service. By consent of parties, the petition is heard finally forthwith.

2. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has impugned the order dated 21st November,2013 passed by the learned Consumer Grievances Redressal Forum, Union Territory of Dadra and Nagar Haveli at Silvassa allowing the complaint filed by the respondent.

3. The respondent had purchased a unit in an auction sale conducted by the Debt Recovery Tribunal, Mumbai in the month of May 2009. It is the case of the petitioner that the erstwhile owner of the premises was liable to pay certain amount to the petitioner towards electricity dues. The petitioner has accordingly issued a notice on 28th May, 2011 upon the respondent who had purchased the said property in auction conducted by the Debt Recovery Tribunal, Mumbai. The said amount was paid by the respondent in installments. The respondent thereafter filed a complaint before the Consumer Grievance Redressal

Forum, i.e. CC/16/2013 which came to be allowed by the said Forum.

4. Learned counsel appearing for the respondent invited my attention to the judgments of Supreme Court in case of (1) ***Special Officer, Commerce, North Eastern Electricity Supply Company of Orissa (NESCO) and another vs. Raghunath Paper Mills Private Limited and another, (2012) 13 SCC 479*** and (2) ***Southern Power Distribution Company of Telengana Ltd. Through its CMD & Ors. vs. Gopal Agarwal & Ors., 2017 SCC OnLine Sc 819*** and would submit that in view of these judgments, the petitioner cannot impugn the impugned order passed by the learned authority setting aside the recovery notices against the auction purchaser.

5. Learned counsel appearing for the petitioner is not been able to distinguish the judgments relied upon by the learned counsel appearing for the respondent. In my view, the judgments relied upon by the learned counsel appearing for the respondent are applicable to the facts of this case. In view of these judgments, no relief can be granted in favour of the petitioner and the same is accordingly rejected.

6. Rule is discharged.

7. The Office is directed to permit the respondent to withdraw the amount deposited by the petitioner with accrued interest if any, within two weeks from today.

8. The parties and the Office to act on the authenticated copy of this order. No order as to costs.

[R.D. DHANUKA, J.]