

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.8962 of 2018

ORDER:

The present Writ Petition is filed for the following relief:

“... to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent Nos.1 to 5 in not releasing the L.T.Domestic Power Supply to meter No.HY YDD-518 on the premises of Non Agricultural land admeasuring Ac.10.00 guntas in Sy.No.100/2 situated at Jiyapally Village, Bibinagar Mandal, Yadadri Bhongir District purchased by the 6th respondent under the provisions of SARFAESI Act, 2002 as illegal, arbitrary and unjust and violative of Article 14, 19 and 300-A of the Constitution of India and violative of Electricity Act and rules made thereunder....”

According to the petitioner, he purchased the subject premises in the auction conducted by the Bank of Baroda under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. The grievance of the petitioner herein is that the respondents herein are insisting on payment of the arrears payable by the earlier owner of the property-M/s Sridhar Enterprises.

The issue in the present Writ Petition is no longer *res integra*. In **Ahmedabad Electricity Company Limited v.**

Gujarat Inns Private Limited and others¹ the Honourable Apex Court, at paragraph No.3, held as under:

“ In our opinion, the present two cases are cases of fresh connection. The learned counsel for the respondents (auction-purchasers) have stated that they have taken fresh connections and they have no objection if their connections are treated as fresh connections given on the dates on which the supply of electricity was restored to the premises. We are clearly of the opinion that in case of a fresh connection though the premises are the same, the auction-purchasers cannot be held liable to clear the arrears incurred by the previous owners in respect of power supply to the premises in the absence of there being a specific statutory provision in that regard. Though we find some merit in the submission of the learned counsel for the appellant calling for reconsideration of the wide propositions of law laid down in Isha Marbles case¹ we think the present one is not a case for such exercise. We leave the plea open for consideration in an appropriate case”.

In fact, following the aforesaid judgment, this Court also allowed W.P.No.3452 of 2007 by way of an order, dated 23.02.2007. A copy of the said order is placed on record along with the Writ Petition as a material paper. In view of the above settled legal position, the impugned action cannot be sustained.

For the aforesaid reasons, the Writ Petition is allowed, directing the respondent Nos.1 to 5 to release the L.T.Domestic Power Supply to meter No.HY YDD-518 on the premises of non-agricultural land admeasuring Ac.10.00 guntas in Sy.No.100/2

¹ AIR 2004 SC 2171

situated at Jiyapally Village, Bibinagar Mandal, Yadadri Bhongir District. There shall be no order as to costs.

As a sequel thereto, miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed.

09th April, 2018
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A.V.SESHA SAI,J

