

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

WRIT PETITION No.15064 of 2018

ORDER:

Heard learned counsel for the petitioner and Sri R.Vinod Reddy, learned Standing Counsel appearing for the respondents.

The grievance of the petitioner, in the present Writ Petition, is that, on the ground that the petitioner herein did not pay the arrears, payable by the earlier owner of the subject premises, the respondents are not releasing the service connection.

According to the petitioner, the subject property was purchased by M/s Aanvik Mercantile Private Limited vide registered sale deed, dated 14.10.2010, executed by the fourth respondent pursuant to auction conducted under the provisions of the SARFAESI Act, 2002. It is stated that the secured assets were sold to M/s Aanvik Mercantile Private Limited free of all encumbrances as on “as is where is” and “whatever there is” basis.

Learned counsel for the petitioner submitted that the impugned action is contrary to the law laid down by the Honourable Apex Court in the case of ***SOUTHERN POWER DISTRIBUTION COMPANY OF T.S.LIMITED v. GOPAL AGARWAL & OTHERS (Civil Appeal No.1918 of 2016)***.

In the above referred case the Honourable Apex Court, at paragraph No.7, held as under:

*“The facts of this case are similar to that of **NESCO v. RAGHUNATH PAPER MILLS (p) LTD.,(2012) 13 SCC 479**. The tender/sale notice mentioned that the property was being auctioned on “as is where is” basis. The first respondent applied for a fresh connection and he is in no way connected to the past owner. He has also not undertaken to pay the past arrears of the previous owner. In view of the above, the Appeal is dismissed”.*

In view of the principle laid down in the above referred judgment, the impugned action cannot be sustained in the eye of law.

Accordingly, the Writ Petition is allowed, setting aside the letters bearing No.ADE/OP/Toopran F.No.CSC/D.No.1903/17, dated 09.03.2018 and No.ADE/OP/Toopran F.No.CSC/D.No.2119/17-18, dated 31.03.2018, of the fourth respondent. Respondents are directed to release the HT Category-I (Industrial) Service Connection in favour of the petitioner herein without insisting on payment of the alleged electricity arrears of M/s Sathyam Spinners Limited. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.V.SESHA SAI,J

30th April, 2018
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