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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1763 of 2019**Judgement reserved on : 21/08/2019Judgement delivered on :11/09/2019

Agrawal Structure Mills (Pvt.) Ltd. Through Director Anil Kumar Agrawal S/o Shri Madan Lal Agrawal, Age 51 Registered Office 193/194, Urla Industrial Area, P.O. Birgaon, Raipur, District- Raipur, Chhattisgarh, Plant Address- Ferro Alloy Division, Plat No. 15, Hardi Kala, Bilha, Bilaspur, District- Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh State Power Distribution Company Limited Through Superintending Engineer, City Circle, CSPDCL, Bilaspur Power House Torwa, Bilaspur, District- Bilaspur, Chhattisgarh.
2. The Executive Engineer City Division, Chhattisgarh State Power Distribution Company Limited, Bilaspur, Torwa Bilaspur, District- Bilaspur, Chhattisgarh.
3. Allahbad Bank Through Chief Manager, Civil Line Road, Near Idgah Chowk, Police Line Bilaspur, District- Bilaspur, Chhattisgarh.

--- Respondents

For petitioner- Ms. Sharmila Singhai and Shri Sanjay Agrawal, Advocates.
 For respondents No.1 and 2-Shri Varun Sharma, Advocate.
 For respondent No.3-Shri Saleem Kazi, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**CAV Judgement**

Heard.

1. The facts of this case are that on a proceeding under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act') a distress sale was made by respondent No.3 Allahabad Bank by auction. In such auction the petitioner had purchased the property pursuant to the advertisement made on 31/10/2018 (Annexure P-3). In the advertisement of auction sale, description of sale of the property, encumbrance was only shown that an amount of Rs.9,16,967/- from Central GST Division is pending as arrears of central excise. The petitioner purchased the property in such auction

sale and paid total amount of 255.10 lakhs to the Allahabad Bank. It is after the purchase they came to know that amount of Rs.77,29,708/- is due as an electricity bill in respect of the erstwhile defaulter namely M/s Om Krishna Bajrang Alloy (P) Ltd. The petitioner thereafter made an application on 11th December, 2018 Annexure R-1(7) to electricity company wherein they prayed for payment of the electricity duty in installment. Thereafter on 23/02/2019 an amount of Rs.19,32,428/- was paid under duress and subsequent on 23/06/2019 Rs.11,59,456/- was paid that too under duress. Finally by Annexure P-8 the petitioner wrote a letter to the Chhattisgarh State Power Distribution Company on 10/04/2019 and contended that they would not be liable to pay the rest of the amount and the amount so paid under duress may not be accepted as a consent and sought for electricity connection. The Chhattisgarh State Power Distribution Company thereafter by letter dated 7/05/2019 (Annexure P-1) had asked to pay amount of dues as per the clause 4.19 of the Electricity Supply Code of 2011 and clear all the dues which is under challenge.

2. Learned counsel for the petitioner would submit that the law in this field is clear from the ratio of law laid down in case **Southern Power Distribution Company of Telangana Limited Through its CMD & Ors. Vs. Gopal Agarwal & ors.** reported in **(2018) 12 SCC 644** and further law laid down by this court in WPC No.2700/2017 wherein orders were passed on 25/01/2018. It is contended that in similar circumstances this court has issued direction for providing electricity connection taking into all the legal aspect. It is further contended by the petitioner that the advertisement of auction sale and subsequent sale certificate would show that bank has categorically stated that the property is free from all encumbrances except for the demand of Rs.9,16,967/- payable to the GST. It is stated the petitioner had purchased the unit on auction sale and

after purchase of unit, it was discovered that electricity charges of erstwhile loanee defaulter was outstanding. It is stated that the bank had not disclosed the said dues as were outstanding before the purchase made. It is further submitted that since the petitioner wanted to start the factory the petitioner did not have any other option except to pay certain amount of electricity charges and has paid amount on two occasion under duress. It is stated since applicability of law is clear, consequently, it cannot be considered to be a estoppel. It is submitted by the petitioner that since it is because of the non disclosure of the fact of outstanding dues of the bank, the petitioner was made to purchase the property as otherwise petitioner would not have purchased. It is stated bank may be directed to adjust the amount of electricity dues.

3. Per contra, learned counsel for respondents No.1 and 2 would submit that they are bound by their Supply Code, 2011. Clause 4.19 of supply code specially postulates that unless and until the dues are made clear the electricity connection cannot be ordered for. He submits that reliance placed by the petitioner will not apply in this case since in that case no undertaking was given by the purchaser whereas in this case undertaking has been given by the purchaser to pay the electricity dues, therefore petitioner is bound by it's own conduct.

4. Learned counsel appearing for the bank would submit that the auction advertisement dated 31/10/2018 (Annexure P-3) it was an open advertisement and at that time the electricity board did not raise any objection that dues are outstanding. Therefore the bank did not have any other way to find out as to what dues are outstanding in the account of the defaulter loanee. Therefore there was no occasion for the bank to show that amount in the advertisement and no fault to the bank can be attributed.

5. Heard learned counsel for the parties at length and perused the

record.

6. The advertisement Annexure P-3 dated 31/10/2018 was made for the auction sale of the movable and immovable property of the erstwhile defaulter of bank M/s Om Krishna Bajrang Alloy (P) Ltd. In such advertisement the description of the property has been given and in the column of encumbrances it is shown that demand of Rs.9,16,967/- from Central GST by way of Central Excise is over due to the loanee M/s Om Krishna Bajrang Alloy (P). Ltd. The particular of auction sale advertisement is relevant which is as under:-

“Sale notice for sale of immovable properties [See Proviso Rule 8(6).

E-Auction Sale Notice for Sale of Immovable Assets under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 read with proviso to Rule 8(6) of the Security interest (Enforcement) Rules, 2002 Notice is hereby given to the public in general and in particular to the Borrower/s and Garantor/s that the below described immovable property/ies mortgaged to the Secured Creditor, the physical possession of which has been taken by the Authorised Officer of Allahabad Bank Bilaspur Secured Creditor, will be sold on “As is where is,” “As is what is.” And “Whatever there is” on 17/11/2018 (date of the sale), for recovery of Rs.2,34,25,731/- (Amount in words:- Rupees Two Crore Thirty Four Lakh Twenty Five Thousand Seven hundred Thirty one only) plus interest due to the Allahabad Bank Secured Creditor from M/s Om Krishna Bajrang Alloys Pvt. Ltd., Directors/Promoters-Sri G. Muralikrishna Raju S/o Late Shri G. Appal Raju & Late Shri G. Trimurti Raju S/o Late Shri G. Appal Raju. The details of immovable properties, reserve price and the earnest money deposit are given below:

Details of the Immovable Properties	Reserve Price	Earnest Money Deposit
Property (1) All that part & parcel of property with plant & machineries of M/s Om	Property (1) at Rs.2,55,00,000.00 (Amount in	Property (1) at Rs.25,50,000.00 (Amount in words:-

Krishna Bajrang Alloys Pvt. Ltd., Directors/Promoters-Sri G. Muralikrishna Raju S/o Late Shri G. Appal Raju & Late Shri G. Trimurti Raju S/o Late Shri G. Appal Raju Industrial Land at Muaza-Hardikala Silpahari Industrial Area, Plot No. 15, Block-Bilha, Tehsil and District -Bilaspur Chhattisgarh Measuring 99225 Sq.ft.	words:- Rupees Two Crores fifty five lacs only)	Rupees Twenty five lacs fifty thousand only)
Property (2) All that part & parcel of M/s Om Krishna Bajrang Alloys Pvt. Ltd.,Directors/Promoters-Sri G. Muralikrishna Raju S/o Late Shri G. Appal Raju & Late Shri G. Trimurti Raju S/o Late Shri G. Appal Raju Industrial Land at Mauza-Sarora, PH No. 101, R.N.M.-Dharsiva 1, Tehsil and District Raipur, KH No.384/1 part, Area 0.279 Hectare (Boundary & construction) Ward No.14, Minimata Ward, Sarora, Dist-Raipur, Chhattisgarh	Property (2) at Rs.1,00,00,000.00 (Amount in words:- Rupees One crore only only)	Property (2) at Rs.10,00,000.00 (Amount in words:- Rupees Ten lac only)
Detail of encumbrance	There is a demand of Rs.9,16,967/- from Central GST division, Bilaspur (being demand of excise duty due as arrears of central excise Department Division Bilaspur against property (1) Properties are in the physical possession of Bank	

Note: This is also a notice to the borrower/guarantors/mortgagors/legal heirs of the above said loan about holding of this sale on the above mentioned date and other details.”

7. The petitioner pursuant to advertisement of auction had purchased the property. Pursuant there too sale certificate which was issued under the Rule 9(6) of Security Interest (Enforcement) Rules, 2002, one is for Rs.97 lakhs and another is for Rs.158.10 lakh making total sale price to be Rs.255.10 lakh to the petitioner which is Annexure P-4. The description of the property is shown in the sale certificate and specific endorsement was made in such certificate that the sale of schedule property was made free from all encumbrances except one known to the secured creditor i.e. outstanding of Rs.9,16,967/- to Central GST. The sale certificate further

shows that the sale was made as is where is basis and free from all encumbrances known to the secured creditor.

8. This court in a case of WPC No.2700 of 2017 decided on 25/01/2018 has laid down the ratio of law and has held that the SARFAESI Act is enacted to provide speedy and summary remedy for recovery of dues which are due to Banks. The Act enables the financial institutions to realise long-term assets, manage problems of liquidity, and to improve recovery of debts by exercising powers to take possession of securities, sell them and thereby reduce non-performing assets by adopting and reconstruction. The Bank/financial institution is entitled to take actual possession of the secured assets from the borrower or from any other person in terms of Section 13(4) of the SARFAESI Act and also take the aid and assistance of Section 14 of the Act. Any transfer of secured assets by the Banks/financial institutions after taking possession of the same shall vest in the transferee all rights in relation to the secured assets as if the transfer has been made by the owner of such secured assets. Chapter III of the SARFAESI Act deals with Enforcement of Security Interest. Sub-sections (1) and (4) of Section 13 of the SARFAESI Act state as under: -

“13. Enforcement of security interest.—(1) Notwithstanding anything contained in section 69 or section 69A of the Transfer of Property Act, 1882 (4 of 1882), any security interest created in favour of any secured creditor may be enforced, without the intervention of the court or tribunal, by such creditor in accordance with the provisions of this Act.

(2) xxx

(3) xxx

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:—

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

.....

.....”

9. The aforesaid provision makes it clear that where any borrower, who is under liability to the secured creditor, makes any default in repayment of secured debt or any installment thereof, and his account in respect of such debt is classified by the secured creditor as non-performing asset, then the secured creditor may issue notice to the borrower to discharge his liabilities in full within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section (4) of Section 13 of the SARFAESI Act which shall include “sale” under Section 13(4)(a).

10. The procedure and method of “sale” of secured assets has been prescribed under the Security Interest (Enforcement) Rules, 2002. The Central Government in exercise of the powers conferred by sub-section (1) and clause (b) of sub-section (2) of Section 38 read with sub-sections (4), (10) and (12) of Section 13 of the SARFAESI Act, has framed these statutory rules. “Sale” of immovable secured assets is prescribed in sub-rule (6) of Rule 8 of the Security Interest (Enforcement) Rules, 2002 which reads as under: -

“8. Sale of immovable secured assets.—(1) Where the secured asset is an immovable property, the authorised officer shall take or cause to be taken possession, by delivering a possession notice prepared as nearly as possible in Appendix IV to these rules, to the borrower and by affixing the possession notice on the outer door or at such conspicuous place of the property.

X x x

(6) The authorised officer shall serve to the borrower a notice of thirty days for sale of the immovable secured assets, under sub-rule

(5);

Provided that if the sale of such secured asset is being effected by either inviting tenders from the public or by holding public action, the secured creditor shall cause a public notice in two leading newspapers one in vernacular language having sufficient circulation in the locality by setting out the terms of sale, which shall include,—

- (a) The description of the immovable property to be sold, including the details of the encumbrances known to the secured creditor;
- (b) the secured debt for recovery of which the property is to be sold;
- (c) reserve price, below which the property may not be sold;
- (d) time and place of public action or the time after which sale by any other mode shall be completed;
- (e) depositing earnest money as may be stipulated by the secured creditor;
- (f) any other thing which the authorised officer considers it material for a purchaser to know in order to judge the nature and value of the property.”

11. The reading of the aforesaid provisions would make it clear that whenever the authorized officer puts the secured asset on sale, the description of the entire property are also to be made published with detail of all encumbrances known to the secured creditor. The object is to make known all the intending purchaser to evaluate and to decide the fact whether they are interested to go in for purchase or not as otherwise any suppression would amount to a misleading fact.

12. It is obvious that when the purchaser in the auction purchase notice is made if certain encumbrances are projected then it would be the option of the purchaser to opt for it or not. If subsequently some hidden liability is raised and projected then it may lead to the fact that those materials were suppressed may not be voluntarily but it was the duty of the authorized officer to enquire all the facts since the Act provides necessarily possession of the property are being taken over and further by virtue of section 55 (A) of the Transfer of Property Act, 1882 the seller is bound to

disclose the buyer all the material defect in the property or in the seller's title thereto of which the seller is and the buyer is not aware and which the buyer could not with ordinary care discover.

13. Thus, in view of the provisions contemplated in clauses (a) and (f) of Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, it is quite clear that when the Bank/financial institution puts the property on sale, the principles of '*caveat venditor*' (seller beware) is applied instead of '*caveat emptor*' (buyer beware).

14. The Law Lexicon (Second Edition) : P. Ramanatha Aiyar's : defines '*caveat venditor*' as :

'*Caveat venditor*' : A maxim meaning "Let the seller beware" (Broom) "If the seller wishes to secure himself from future responsibility in case the article sold should afterwards be found to be different in kind or quality from what the party supposed it to be, he must take care or provide against such responsibility by a particular agreement with the purchaser."

Let the seller beware (Latin for lawyer)

This maxim of the civil law express a doctrine the reverse of the rule of *caveat emptor* of the common law. It applies to executor sales, to contract for goods to be manufactured or produced or to sales where the buyer has no opportunity to inspect the article purchased.

15. In the matter of **S. Shanmuganathan v. Authorized Officer Indian Overseas Bank, Chennai**¹, the Madras High Court has clearly held that requirement of description of property and details of encumbrance to secured creditor are mandatory in nature and the purchaser should be put on specific notice about all the encumbrances and other materials so as to enable him to take a conscious decision with regard to his participation in the auction and the amount to be quoted in his bid. The disclosure is not an empty formality. The auction notification is defective and improper in case the encumbrances and known litigations are not disclosed. Apart

1 AIR 2017 Madras 228

from this, by virtue of sub-rule (9) of Rule 9 of the Security Interest (Enforcement) Rules, 2002, the statutory obligation on the part of the secured creditor is to deliver the property free from encumbrance to the purchaser and such disclosure must be made well before the auction to give an option to the purchaser to take part in the auction. Thus, there is a statutory obligation on the part of the Bank/financial institution to disclose the encumbrance in auction-sale.

16. The provision of Rule 8 of the Security Interest (Enforcement) Rules, 2002 and extent of its applicability has been scanned by the Supreme Court in the matter of **Mathew Varghese v. M. Amritha Kumar and others**² and it has been held by Their Lordships that such a detailed procedure while resorting to a sale of an immovable secured assets is prescribed under Rules 8 and 9(1) of the Security Interest (Enforcement) Rules, 2002.

17. The provisions of Rule 8 of the Security Interest (Enforcement) Rules, 2002 and the extent of applicability has been evaluated by the Supreme Court in the matter of **Mathew Varghese v. M. Amritha Kumar & ors.** reported in **(2014) 5 SCC 610** and it has been held that while resorting to sale of immovable secured asset as prescribed under Rule 8 and Rule 9(1) of the Security Interest (Enforcement) Rules, 2002 the twin object has to be achieved by the said Rule. One of it is that which is applicable to this case would be as under:-

“33.2. Secondly, when such a secured asset of an immovable property is brought for sale, the intending purchasers should know the nature of the property, the extent of liability pertaining to the said property, any other encumbrances pertaining to the said property, the minimum price below which one cannot make a bid and the total liability of the borrower to the secured creditor. Since, the proviso to sub-rule (6) also mentions that any other material aspect should also be made known when effecting the publication,

2 (2014) 5 SCC 610

it would only mean that the intending purchaser should have entire details about the property brought for sale in order to rule out any possibility of the bidders later on to express ignorance about the factors connected with the asset in question.”

18. The aforesaid principles when applied to the present facts and the auction notice and the auction sale are examined it shows that no such encumbrance as existing of dues has been projected by the authorised officer. Therefore the bank as a financial institution has failed to exercise the due diligence on the secured asset before the same is put to auction so as to insulate it and to certify that it is free from encumbrance or liability.

19. The Chhattisgarh State Electricity Supply Code-2011 has been framed in exercise of power conferred under Section 43(1) read with Section 181(t), Section 44, Section 46 read with Section 181 (1), Section 47(1) read with Section 181(v), Section 47(4) read with Section 181(w), Section 47(2), (3) and (5), Section 48(b) and Section 50 read with Section 181 (x) and Section 56 of the Electricity Act, 2003 and the Electricity (Removal of Difficulties) Order, 2005 issued by the Ministry of Power, Government of India on 8-6-2005. Clause 4.19 of the Code states as under: -

“4.19 If the consumer, in respect of an earlier agreement executed in his name or in the name of a firm or company with which he was associated either as a partner, director or managing director, has any arrears of electricity dues on the premises for which the new connection is applied and such dues are payable to the licensee, the requisition for supply may not be entertained by the licensee until the dues are paid in full. In case of a person occupying a new property, it will be the obligation of that person to check the electricity bills for the previous months or, in case of disconnected supply, the amount due as per the licensee's records immediately before his occupation and ensure that all outstanding electricity dues as specified in the bills are duly paid up and discharged. The licensee shall be obliged to issue a certificate of

the amount outstanding against the connection that was installed or is installed in such premises on request made by such person within 30 days from the date of receipt of such request and release the connection after clearance of outstanding dues.”

20. The Electricity Supply Code obliges the person occupying the new property to clear the dues as per the licensee's records before his occupation and ensure that all electricity dues as specified in the bills are duly paid and that has been made the condition precedent for entertaining the requisition for supply of new electricity connection.

21. In the matter of **Isha Marbles v. Bihar State Electricity Board and another**³, the Supreme Court has held that Bihar State Electricity Board is a 'State' within the meaning of Article 12 of the Constitution and therefore its action must pass the test of fairness and reasonableness, and a purchaser therein (Isha Marbles), the writ petitioner therein, was not expected to make an enquiry from the Board so as to know whether any dues were outstanding to the Board from the previous consumer; nor is it possible for the auction-purchaser to find out the personal liability of the debtor. It further held that the electricity dues by the previous industry is a contractual liability between the industry and the respondent-Board. It is not statutory in nature since electricity is consumed by consumer on the basis of a written contract as prescribed in Form EB-70 approved by Section 26 of the Indian Electricity Act, 1910. It also held that neither under the scheme of the Electricity Act nor the Electricity (Supply) Act, 1948 is there any concept of the premises of the consumer being liable for the electricity dues dehors the consumer, whose premises it is. The Supreme Court finally held that the auction-purchaser of the premises who has purchased the property under Section 29(1) of the State Financial Corporations Act, 1951, would not be liable to meet the liability of the previous consumer in order to secure reconnection.

3 (1995) 2 SCC 648

22. Finally in the case **Southern Power Distribution Company of Telangana Limited Through its CMD & Ors. Vs. Gopal Agarwal & ors.** (supra) the Supreme Court has reiterated the ratio of law laid down in case of **Isha Marbles v. Bihar SEB** reported in **(1995) 2 SCC 648** and **NESCO v. Raghunath Paper Mills (P) Ltd.** reported in **(2012) 13 SCC 479** and in paras 5, 6 & 7 has held as under:-

“5. A Division Bench of the High Court confirmed Central Power Distribution Co. of A.P. Ltd. v. Gopal Agarwal, 2007 SCC OnLine AP 1161 the judgment Gopal Agarwal v. Central Power Distribution Co. of A.P. Ltd., WP No.3452 of 2007 decided on 23/02/2007 (AP) of the Single Judge by dismissing the appeal filed by the appellants. The Division Bench held that there was no evidence produced before the Court to show that the first respondent had undertaken to discharge the liability of the previous consumer. It was also held that the appellants cannot withhold the supply of power to Respondent No.1 on the specious ground that the arrears have not been cleared by the previous consumer. The appellants, as stated earlier, have filed this appeal assailing the said judgment of the High Court.

6. We have heard the learned counsel appearing for the parties and we are of the opinion that there is no reason to interfere with the judgment of the High Court. The High Court relied upon the judgment in **Isha Marbles v. Bihar SEB**, (1995) 2 SCC 648 to grant relief to the first respondent. It was held in the said judgment that an auction purchaser cannot be called upon to clear the past arrears. It was also held that a power connection to an auction purchaser cannot be withheld for the dues of the past owner. The High Court also referred to a judgment in **Ahmedabad Electricity Company Limited v. Gujarat Inns (P) Ltd.**, (2004) 3 SCC 587 wherein the ratio of the judgment in **Isha Marbles** case was reiterated, particularly with reference to a fresh connection for supply of electricity. In **NESCO v. Raghunath Paper Mills (P) Ltd.**, (2012) 13 SCC 479, the purchaser in an auction sale conducted by the Official Liquidator on “as is where is” and “whatever there is” basis was found not liable for payment of the electricity arrears. In the said case an advertisement was issued by the official liquidator for sale of movable and immovable property of M/s Konark Paper and

Industries Limited on “as is where is” and whatever there is” basis. The auction purchaser applied for a fresh electricity connection to its unit which was denied on the ground of non payment of arrears by the past owner. After considering the judgments in Ahmedabad Electricity Co. Ltd. v. Gujarat Inns (P) Ltd., (2004) 3 SCC 587 and Isha Marbles v. Bihar SEB, (1995) 2 SCC 648 this Court held that the request of the auction purchaser for a fresh connection could not have been rejected.

7. 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.”

23. The ratio when we apply to this case would show that neither the advertisement nor the sale certificate describes that any encumbrance exist over the property when purchased. As against this the sale certificate shows that property was sold as is where is basis and was shown that it was without any encumbrances and the auction purchaser the petitioner purchased the property on the basis of that premise and advertisement made by bank.

24. The purchase was made under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Sale certificate has been issued in favour of the petitioner under Rule 9(6) of the Security Interest (Enforcement) Rules, 2002 which do not show the property carries a charge for payment of electricity charges. As has been held by this court in WPC No.2700/2017 in between M/s Maheshwari Steels Vs. Chhattisgarh State Power Distribution Company Limited & Ors. decided on 25/01/2018, that if the objection like nature are allowed then in such case the auction sale made under the SARFAESI Act would never become final and remain unconcluded and in view of the provisions contained in Section 35 of the SARFAESI Act which

has an overriding effect over any law for the time being in force, the auction sale having been made in accordance with the SARFAESI Act and the Rules of 2002 it would prevail over clause 4.19 of the Electricity Supply Code.

25. Lastly it is observed that the entire sale proceeding under the SARFAESI Act was carried out by the respondent No.3 Allahabad Bank. The bank on the facts of this case appears to be acted in most callous manner and the officers failed to detect the huge charges to the extent of Rs.77,29,673/- as simply in casual and slipshot manner has made the advertisement. The sale was subsequently made under the SARFAESI Act. It is obvious that if such huge outstanding had it been shown in the publication for sale, any purchaser would have thought twice whether to go into such purchase or not. If in the like manner if the proceeding under SARFAESI Act is carried out and as it happened in the case after purchase the purchaser came across the liability of like nature which comes to fore the uncertainty would be enough to defeat the object of SARFAESI Act.

26. In view of the foregoing discussion, the Annexure P-1 issued dated 7/05/2019 is set aside. The respondents No.1 and 2 are directed to entertain the request of petitioner for supply of the electricity to grant electricity connection subject to compliance of requirement under the provisions of Electricity Act, 2003. It is further made clear that this would not prevent the respondents No.1 and 2 to recover the amount of the electricity charges from the erstwhile debtor M/s Om Krishna Bajrang Alloy (P) Ltd.

27. Accordingly, the petition is allowed to the above extent. The parties shall bear their own cost.

Sd/-

(Goutam Bhaduri)
JUDGE