

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.40 of 2016

Executive Engineer (Electrical), Appellant
WESCO, Sambalpur Electrical
Division, Sambalpur

M/s. P. K. Tripathy and associates, Advocates
-versus-

M/s. Maa Tara Rice Industries Pvt. Respondent
Ltd., Sambalpur

None

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
28.09.2022

Order No.

02

1. The present appeal is directed against an order dated 1st December, 2015 of the learned Single Judge dismissing W.P.(C) No.8922 of 2015 filed by the present Appellant thereby upholding an order dated 5th February, 2015 passed by the Grievance Redressal Forum (GRF), Burla in GRF Case No.169 of 2014 setting aside the demand raised by the present Appellant.

2. The admitted facts are that the Respondent-M/s. Maa Tara Rice Industries Pvt. Ltd. took over the erstwhile unit of an earlier consumer of the present Appellant i.e. M/s. Jagannath Rice Industries on the basis of an auction purchase on 1st December, 2000 pursuant to a public notice.

3. The question that arose before the learned Single Judge was whether the subsequent purchaser could be made liable for the

electricity dues of the previous owner. The learned Single Judge has in the impugned judgment answered the question in the negative after perusing the agreement executed between the previous owner and the auction purchaser. The learned Single Judge has also referred to Regulations 10 and 14 of the Orissa Electricity Regulatory Commission Distribution (Condition of Supply) Code, 2004. Learned counsel for the Appellant sought to place reliance on the judgment of the Supreme Court of India in ***Telangana State Southern Power Distribution Company Limited v. Srighdaa Beverages, AIR 2020 SC 2676*** to urge that the subsequent purchaser would be liable to clear the electricity dues of the previous owner.

4. The Court is unable to agree with the above submissions. A perusal of the above judgment reveals that in the facts of that case, the E-auction notice in question clearly mentioned that the sale would be “as is where is, whatever there is and without recourse basis.” In the present case, there was no such clear indication in the auction notice and, therefore, the case of the Appellant is in no way assisted by the above judgment of the Supreme Court. In the present case, the agreement between the parties was clearly not in contemplation of electricity dues as is evident from the wording of the particular clause of the Agreement regarding liabilities of the erstwhile owner. In the absence of a specific clause concerning electricity dues, the present Appellant cannot compel the subsequent auction purchaser to clear the dues of the previous owner.

5. There is no error committed by the learned Single Judge in dismissing the writ petition of the Appellant by the impugned order. Consequently, the appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

M. Panda

