



Comp.A.Nos.613 & 614 of 2023

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in

C.P.No.115 of 2004

Krishnan Ramasamy, J.,

Prayer in Comp.A.No.613 of 2023:

This company application is filed to direct the Official Liquidator to take necessary steps separately by coordinating with the second respondent in respect of claim of Rs.84,67,273/- against the pending EB arrears of Vijayakumar mills Limited (in liquidation).

Prayer in Comp.A.No.614 of 2023:

This application is filed seeking the following prayers:

- i) To direct the Official Liquidator to take necessary steps separately by coordinating with the 2nd respondent in respect of claim of Rs.84,67,273/- against the pending EB arrears of Vijayakumar mills.
- ii) To direct the Official Liquidator to coordinate with the 2nd respondent for providing electricity connection for Lot-B properties in speedily manner.



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WEB COPY 2. The learned counsel for the applicant submitted that the applicant was a successful bidder, who participated in the public auction conducted by this Court on 14.07.2023 and 18.07.2023 in C.A.No.14 of 2023 in respect of Lot-B & Lot-C properties. Thereafter, the applicant has paid the entire bid amount and this Court on 14.07.2023, declared the applicant was the successful bidder for Lot-B properties for a sum of Rs.23,50,00,000/-. Thereafter, the applicant-company has made an application on 29.09.2023 for the new electricity connection in the name of the applicant. Since the old electricity connection was standing in the name of the company in liquidation, where the electricity connection was disconnected for the non-payment of arrears of EB dues, for which, the second respondent/TANGEDCO has already taken steps to recover the amount from the company in liquidation and before the Official Liquidator, the second respondent has lodged their claims and urged that they would be treated as priority claimant in terms of Section 530 of Companies Act, and accorded the payment.

2.1. Further, he would submit that though the applicant made applications on 29.09.2023, 04.10.2023 and 05.10.2023 before the Official Liquidator, but the same was not considered and still pending. Therefore,



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finding no other option, the applicant-company has approached this Court.

Further, the learned counsel submitted that a sum of Rs.84,67,273/- towards EB arrears to be paid by the erstwhile owner i.e., M/s.Vijayakumar Mills Limited.

3. On the other hand, the learned Additional Advocate General appearing for the Commercial Tax Department would submit that, in the present case, the total EB arrears is a sum of Rs.84,67,273/-.

4. The learned counsel appearing for the second respondent/TANGEDCO would submit that unless and otherwise, the said amount is paid, neither a new connection can be provided nor the old connection can be restored. Further, she referred Section 22(5) in the Tamil Nadu Electricity Supply Code, 2004, which reads as follows:

“The licensee shall restore the disconnected service before issue of termination of agreement notice and also during the notice period for termination of agreement on recovery of total arrears due till the date of restoration.”

5. By referring to the above clause, she would submit that unless and otherwise, the entire EB arrears amount is paid, the electricity connection



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cannot be restored. Further, she submitted that, since the property against which the applicant purchased, already the EB arrears are pending, and hence they are not in a position to provide electricity service connection. She fairly submitted that, for the said arrears, the second respondent has already lodged a claim before the Official Liquidator in accordance with the provisions of the Companies Act. Further, she submitted that these are the statutory claims made under Section 530 of the Companies Act, 1956.

6. The learned Deputy Official Liquidator would submit that the property was sold to the applicant through the public auction. After Official Liquidator took over a charge, subsequent to winding up of the company in liquidation, if at all, there is any claim in respect of dues payable by the company in liquidation, they can file a claim before the Official Liquidator and their claims will be considered in accordance with the provisions of law. Leaving that, now the second respondent refusing to grant electricity connection in respect of the subject properties, contending that unless and otherwise, the entire EB dues are paid, they are not in position to provide new electricity service connection. Further, she would submit that the second respondent refused to grant new electricity connection citing for the present outstanding dues. She would further contend that, in the present case, the public auction



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was conducted and sold the property to the applicant and the amount was also realised. Further, the second respondent has already lodged a claim before the Official Liquidator. Hence, she submitted that this Court may pass appropriate orders.

7. Heard the learned counsel for the applicant, learned Deputy Official Liquidator as well as the learned counsel for the second respondent and perused the materials available on record.

8. In the present case, there is no dispute, with regard to the fact that the 2nd respondent/TANGEDCO officially granted electricity service connection to the company before its liquidation. The aforesaid company was wound up by virtue of the order of this Court. Pursuant to which, the Official Liquidator took over the charge of the company in liquidation, and thereafter, the Official Liquidator called for the claims. The second respondent/TANGEDCO filed a claim against the outstanding arrears of the electricity supply of the company in liquidation. Subsequently, the Official Liquidator brought the subject properties for sale through Court by way of public auction. The applicant has participated in public auction and the applicant has remitted the entire bid amount.



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9. At this juncture, the applicant made an application before the second respondent for the purpose of new electricity connection and the same is pending. Therefore, the present application is filed before this Court to direct the second respondent to provide electricity connection for the subject properties. The learned counsel for the second respondent would contend that citing the outstanding arrears of the erstwhile owner, the application is pending without taking any action. As far as the dues of EB arrears of the company in liquidation is concerned, once the winding up order was passed and the Official Liquidator has taken over the charge of the company and subsequently called for the claims, any EB arrears, the second respondent/TANGEDCO is supposed to file a claim before the Official Liquidator. In the present case, the second respondent/TANGEDCO also filed a claim before the Official Liquidator and thereafter the Official Liquidator brought the subject properties for sale and the properties were also sold through public auction to the applicant-company and the bid amount was also realized. As per the provisions of Sections 529(A) of the Companies Act, 1956, the secured creditors of the company in liquidation will get priority and as such, the second respondent also will get priority in terms of Section 530 of the Companies Act, 1956, to recover the EB arrears payable by the company in liquidation.



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WEB COPY 10. Therefore, the second respondent having filed the statutory claim before the Official Liquidator, there is no justification on their part to refuse the grant of electricity service connection to the applicant. Once the second respondent filed a statutory claim for recovery of EB arrears, the second respondent has to work out their claims before the Official Liquidator, who in turn, will disburse the amount based on the priority provided under the provisions of the Companies Act. Even though the Official Liquidator has taken charge over the assets of the Company in liquidation, pursuant to the sale conducted by the Official Liquidator, the property, now vests with the applicant, as he purchased the property, and therefore, even assuming that the second respondent has further claim, the only recourse available to them is to approach the Official Liquidator to meet out the claim out of the sale proceeds received by the Official Liquidator. Therefore, this Court is of the considered view, it is not proper for the second respondent to keep the application pending. Therefore, this Court directs the second respondent/TANGEDCO to issue the electricity service connection to the applicant-company in respect of Lot-B properties within a period of two weeks from today. As regards the Lot-C properties are concerned, the learned counsel for the applicant would submit that the amount is yet to be paid and he seeks time for making the payment.



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WEB COPY11. With the above, these company applications are disposed of.

Post these matters on 01.08.2024 under the caption for “reporting compliance”.

12.07.2024

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Note: Issue order copy on 19.07.2024.



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