

AHMEDABAD ELECTRICITY CO. LTD.

v.

GUJARAT INNS. PVT. LTD. AND ORS.

MARCH, 16, 2004

[R.C. LAHOTI, BRIJESH KUMAR AND ARUN KUMAR, JJ.]

Electricity—Auction purchasers of property—Liability of towards previous arrears of electricity dues—Previous owners in arrears of electricity dues—Electricity supply disconnected—Auction sale of property—Auction purchasers seeking fresh connections—Electricity Board insisting on previous arrears to be cleared—Held, the auction purchasers are seeking fresh connections—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.

Isha Marbles v. Bihar State Electricity Board and Anr., [1995] 2 SCC 648, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1691 of 1999.

From the Judgment and Order dated 4.9.98. of the Gujarat High Court in I.P.A. No. 1027 of 1998.

WITH

C.A. No. 7586 of 1999.

Harish N. Salve, Ramesh P. Bhat, Ranjeet Kumar, Bhargava V. Desai, Satjeev Kumar Singh, Pradeep Kumar Malik, P.H. Parekh, Rohit Alex, Ms. Ranjeet Rohtagi, M.N. Shroff, Chirag M. Shroff, Ms. Jayashree Wad, Ms. Yugandhara P. Jha and Jyotinder Adersha for the appearing parties.

The following Order of the Court was delivered :

The respondents in the two appeals before us are auction purchasers of urban properties in the sales held in one case under Section 29 of the State

A Financial Corporation Act, 1951 and in the other case by the Official Liquidator in winding up proceedings under the Indian Companies Act, 1956. The previous owners of the properties in both the cases had run into some arrears qua the appellant in respect of power supply made to the premises which have been the subject matter of sales. It appears that the respondents sought for a fresh connections for supply of power to the respective premises. The B appellant insisted on the previous arrears being cleared, It also appears that some arrears were paid by the respondents Nos. 1 and 2 in Civil Appeal No. 1691 of 1999. However, the supply of electricity has been resumed. The dispute is whether the respondents should be held liable to pay the arrears which were outstanding against the previous owners.

C A three-Judge Bench decision of this Court in *Isha Marbles v. Bihar State Electricity Board and Anr.*, [1995] 2 SCC 648 supports the respondents and has been followed by the High Court. Mr. Harish N. Salve, the learned senior counsel for the appellant submitted that the decision in *Isha Marbles'* case (supra) does not lay down the correct law and needs reconsideration. In D particular, the learned senior counsel for the appellant has invited our attention to paragraphs 49 and 57 of the decision wherein this Court has held that not only in the case of fresh connection but even if it is a case of reconnection the buyer of the property is under no obligation to pay the arrears incurred by the previous owners. The learned counsel submitted that at least a distinction E should be drawn between the case of reconnection and the case the former case even the buyer would not be the arrears were cleared.

two cases are the cases of fresh respondents (auction purchasers) connections and they have no objection in as fresh connections given on the dates on which the supply of electricity was restored to the premises. We are F 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 G appellant calling for reconsideration of the wide propositions of law laid down in *Isha Marbles'* case (supra), we think the present one is not a case for such exercise. We leave the plea open for consideration in an appropriate case.

The appeals are dismissed.

H R.P.

Appeals dismissed.