

# SUPREME COURT OF INDIA

Ahmedabad Electricity Company Limited

Vs.

Gujarat Inns. Private Limited

C.A.No.1691 of 1999

(Arun Kumar, R. C. Lahoti and Brijesh Kumar JJ.)

16.03.2004

## ORDER

The Order of the Court is as follows

1. 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 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 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.

2. A three-Judge Bench decision of this Court in *Isha Marbles vs. Bihar State Electricity Board & Anr.* 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 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 should have been drawn between the case of reconnection and the case of fresh connection; in the former case even the buyer would not be entitled to reconnection unless the arrears were cleared.

3. In our opinion, the present two cases are the cases of fresh connection. The learned counsel for the respondents (auction purchasers) have stated that they have taken fresh connections and they have no objection if their connections are treated as fresh connections

given on the dates on which the supply of electricity was restored to the premises. We are 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 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.