

(SHOW CAUSE NOTICE BEFORE ADMISSION)
HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWELFTH DAY OF JANUARY TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY
WRIT PETITION NO: 1987 OF 2022

Between:

M/s. MSN Pharmachem Pvt. Ltd., Plot No.C-24, Sanath Nagar Industrial Estate, Sanath Nagar, Hyderabad – 500018, Telangana Represented by its Authorised Signatory, Authorised Signatory, Sri K. Srinivasulu Reddy, Aged 49 years, S/o. Shri (Late) K. Ramana Reddy, R/o. H.No.3-52, RTC Colony, Chandanagar, Hyderabad – 500049.

...Petitioner

AND

1. Southern Power Distribution Company of Telangana State Limited, H.No.6-1-50, Mint Compound, Corporate Office, Hyderabad, Telangana.
2. The Superintending Engineer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Medak, at Sangareddy.
3. The Senior Accounts Officer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Sangareddy.
4. The District Collector and Magistrate, Sanga Reddy District.
5. M/s. Purnima Enterprises, Plot No.276D and B, Phase III, IDA Pashamylaram, Medak District.
6. Pegasus Assets Reconstruction Pvt. Ltd., 202, Sri Sai Residency, Sripuri Colony, Kakaguda, Kharkana, Secunderabad, Hyderabad – 500 015.
7. M/s. Anusha Product Pvt. Ltd., 5-25, Anusha Castle, Kukatpally, Hyderabad – 500 072.
8. M/s. Accurate Engineers (partnership firm), having its office at Plot No.9, Phase – I, IDA Jeedimetla, Hyderabad, represented by its Managing Partner Sri Tempalli Siva Subramanyeswara Rao, S/o. Sri T. Subba Rao.

...Respondents

WHEREAS the Petitioner above named through its Advocate M/s. R.S. ASSOCIATES presented this Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, direction or order more particularly in the nature of a writ of mandamus declaring that the property purchased by the Petitioner vide Sale Deed Document No.6921 of 2021 dated 01-02-2021 is free from all encumbrances and consequently declare the action of Respondents No.1 to 3 in demanding the arrears of Respondent No.5 from the Petitioner as being illegal, arbitrary and unlawful.

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of SRI. S. RAVI Senior Counsel representing M/s. R.S. ASSOCIATES Advocate for the Petitioner, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Southern Power Distribution Company of Telangana State Limited, H.No.6-1-50, Mint Compound, Corporate Office, Hyderabad, Telangana.
2. The Superintending Engineer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Medak, at Sangareddy.
3. The Senior Accounts Officer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Sangareddy.
4. The District Collector and Magistrate, Sanga Reddy District.

5. M/s. Purnima Enterprises, Plot No.276D and B, Phase III, IDA Pashamylaram, Medak District.
6. Pegasus Assets Reconstruction Pvt. Ltd., 202, Sri Sai Residency, Sripuri Colony, Kakaguda, Kharkana, Secunderabad, Hyderabad – 500 015.
7. M/s. Anusha Product Pvt. Ltd., 5-25, Anusha Castle, Kukatpally, Hyderabad – 500 072.
8. Sri Tempalli Siva Subramanyeswara Rao, S/o. Sri T. Subba Rao Managing Partner, M/s. Accurate Engineers (partnership firm), having its office at Plot No.9, Phase – I, IDA Jeedimetla, Hyderabad.

are directed to show cause on or before 02-02-2022 to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the Respondent Nos.1 to 3 to provide a power connection without reference to the previous dues of Respondent No.5, pending disposal of WP.No.1987 of 2022, on the file of the High Court.

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all actions taken by the Respondent No.4 pursuant to the letter RR ACT/D.No.547/19 dated: 02-12-2019 submitted by the Respondent No.3 to Respondent No.4, pending disposal of WP.No.1987 of 2022, on the file of the High Court.

IA NO: 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the action of Respondent Nos.1 to 3 including demand of arrears due from Respondent No.5 amounting to Rs.1,30,91,358/- from the Petitioner, pending disposal of WP.No.1987 of 2022, on the file of the High Court.

THE COURT MADE THE FOLLOWING ORDER:

Notice before admission.

Heard Sri S. Ravi, learned Senior Counsel and Sri R. Vinod Reddy, learned Standing Counsel for R-1 to R-3.

Seizure notice issued by TSSPDCL Operation Circle – Sangareddy calling upon the petitioner to pay arrears amounting to Rs.1,38,02,105/- within a period of fifteen days or else proposed to take action under the provisions of Revenue Recovery Act for seizure of land of the petitioner, is assailed in this Writ Petition.

Learned Senior Counsel submitted that the arrears ought to be recovered from the petitioner pertained to the period prior to 2013 when the factory premises was owned by R-5. Subsequently, title of property has changed several hands and petitioner purchased the property on 01.02.2021. Learned Senior Counsel submits that impugned notice is issued under the provisions of the Revenue Recovery Act, 1984. Electricity Act, 2003 (Act, 2003), is a self-content code and recovery if any under the provisions of the Act, 2003. More over recovery of arrears prior to 2013 could not have been done by respondent-authorities as they are time-barred. Learned Senior Counsel refers to Section 56(2) of the Act, 2003 to buttress his contention. Further, it is submitted that under Section 174 of the Act, this Act would have overriding effect.

Learned Standing Counsel submits that even if arrears pertained to the period when the property was under the ownership of R-5, as laid down by the Hon'ble Supreme Court, petitioner is liable to pay the due amounts.

Having regard to submissions made by the learned Senior Counsel and the learned Standing Counsel, this Court is of the opinion that the issues as to whether provisions of the Act, 2003, have overriding effect over other laws and the respondents 1 to 3 could have been resorted to the provisions of Act, 1984 and further whether the alleged recovery by respondent-authorities is barred by limitation or not are matters which require consideration.

In the circumstances, there shall be interim stay, as prayed for, subject to petitioner depositing Rs.30,00,000/- (Rupees thirty lakh only), within a period of six (6) weeks from today.

Post on 02.02.2022.

SD/- T. JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Southern Power Distribution Company of Telangana State Limited, H.No.6-1-50, Mint Compound, Corporate Office, Hyderabad, Telangana.
2. The Superintending Engineer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Medak, at Sangareddy.
3. The Senior Accounts Officer, Southern Power Distribution Company of Telangana State Limited, Operation Circle, Sangareddy.
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5. M/s. Purnima Enterprises, Plot No.276D and B, Phase III, IDA Pashamylaram, Medak District.
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8. Sri Tempalli Siva Subramanyeswara Rao, S/o. Sri T. Subba Rao Managing Partner, M/s. Accurate Engineers (partnership firm), having its office at Plot No.9, Phase – I, IDA Jeedimetla, Hyderabad (RR 1 to 8 by RPAD along with a copy of petition and affidavit).
9. One CC to M/s. R.S. ASSOCIATES, Advocate [OPUC].
10. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad [OUT].
11. One spare copy
ZEE

HIGH COURT

BVRJ

DATED:12/01/2022

POST ON 02.02.2022.

NOTICE,BEFORE ADMISSION

WP.No.1987 of 2022

INTERIM STAY

