Where an auction purchaser of assets of a company in liquidation applies for a fresh electricity connection after the earlier connection has already been dismantled, the electricity distribution licensee cannot insist on payment of the previous consumer's arrears as a condition for giving supply

The **Kerala High Court (Ernakulam Bench)** in the case of **G. Nagendran vs Kerala State Electricity Board [W.A.NO.1718 OF 2022] dated July 28, 2026**, has held that where an auction purchaser of assets of a company in liquidation applies for a fresh electricity connection after the earlier connection has already been dismantled, the electricity distribution licensee cannot insist on payment of the previous consumer's arrears as a condition for giving supply, because the governing statutory framework requires those dues to be recovered from the earlier owner or occupier and not from the purchaser.

The Court also laid down that a general clause creating a first charge on a consumer's assets under Regulation 19 of the KSEB Terms and Conditions of Supply, 2005 cannot be used against a subsequent purchaser unless there exists a legally enforceable charge referable to the applicable service connection agreement. Where the old arrears arose under a pre-2005 arrangement, and the sale deed itself conveyed the assets free from encumbrances and statutory liabilities, the Board cannot recover those dues from the auction purchaser.

The Court further clarified that once the electricity board has submitted its claim in the liquidation proceedings, it must await recovery in accordance with company liquidation law along with other creditors, and cannot sidestep that process by refusing a fresh connection to the auction purchaser until old arrears are paid.

The Court observed that the appellant had applied for a new electricity connection, not for restoration or transfer of the old one, because the previous connection had already been dismantled. For such a case, Section 43 of the Electricity Act, Regulation 12 of the Kerala Electricity Supply Code, 2005, and Regulation 7 of the KSEB Terms and Conditions of Supply, 2005 clearly provided that arrears of the previous owner or occupier had to be recovered from that previous consumer and not from the purchaser.

The Court further observed that the charge contemplated under Regulation 19 of the 2005 Terms and Conditions could operate only in respect of assets covered by a service connection agreement executed after those terms came into force. In the present case, the arrears related to the earlier owner whose service connection agreement had been entered into before 2005. Therefore, this was not a case where an enforceable charge existed over the assets purchased by the appellant.

The Court also found, contrary to the view taken by the Single Judge, that KSEB had in fact participated in the liquidation proceedings and had lodged its claim before the Official Liquidator for the same arrears. Once KSEB had come into the winding up process as a creditor, it could not bypass that process and indirectly convert its unsecured claim into a preferential recovery against the auction purchaser, to the prejudice of other secured creditors entitled to claim against the sale proceeds.

The Court gave importance to the wording of the sale deed as well. It noted that the assets were expressly conveyed to the appellant without encumbrance and without statutory liability of the vendor company. In that situation, KSEB was estopped from demanding the previous consumer’s dues from the appellant merely because he had purchased the company’s assets in auction.