

(2005) 09 SC CK 0060

In the Supreme Court Of India

Case No : Civil Appeal No. 5461 of 2005 Arising out of SLP (Civil) No. 25222 of 2004

Amit Products (India) Ltd.

APPELLANT

Vs

Chief Engineer (O and M) Circle and Another

RESPONDENT

Date of Decision : 02-09-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1)

Citation : AIR 2005 SC 3475 : (2005) 5 ALLMR 968 : (2006) 1 BomCR 184 : (2005) 127 CompCas 443 : (2005) 4 CPJ 30 : (2005) 5 CTC 289 : (2005) 4 JCR 136 : (2005) 7 SCC 393 : (2005) 64 SCL 22 : (2005) 2 UJ 1316

Hon'ble Judges : K. G. Balakrishnan, J;B. P. Singh, J

Bench : Division Bench

Advocate : Ashok H. Desai, Uday U. Lalit and Kailash Chand, for the Appellant; Altaf Ahmed Shashikant Sharma and A.S. Bhasme, for the Respondent

Final Decision : Dismissed

Judgement

K.G. Balakrishnan, J.—Leave granted.

2. Heard the teamed Counsel for the appellant and the learned Counsel for the Maharashtra State Electricity Board (in short "MSEB"). By the impugned Judgment, the Writ Petition filed by the appellant company was rejected by the High Court. The appellant company, M/s. Amit Products (India) Ltd., is a company incorporated in India and registered under the provisions of the Companies Act, 1956. The appellant company obtained Provisional Registration Certificate as a small scale industry from the Director of Companies of Government of Maharashtra. The Director of the Appellant Company Shri Shridhar Natekar filed an application for getting electricity connection. This was rejected by the respondent MSEB. MSEB insisted on clearance of all arrears of electricity charges payable by M/s. Amar Amit Jalna Alloys Pvt. Limited which according to the MSEB was the previous consumer. The appellant company contended that they are not liable to pay the electricity charges payable by M/s.

Amar Amit Jalna Alloys Pvt. Ltd. and the appellant company herein is a distinct and separate company which had nothing to do with M/s. Amar Amit Jalna Alloys Pvt. Ltd. It may be noted that previously appellant company filed a Writ Petition namely, W.P. 2090/2002. In the Writ Petition, the appellant company requested for power supply to its factory contending that it is a separate company situated at a separate portion of the property comprised in the same Survey No. and the insistence of the MSEB to pay the arrears of electricity charges to be payable by M/s. Amar Amit Jalna Alloys Pvt. Ltd. and the refusal to give supply was arbitrary and violative of Article 14 and 19 of the Constitution. The matter was elaborately considered by the High Court of Bombay and by judgment dated 18.12.21003, it was held that the appellant company was seeking connection in respect of the same premises, by the same consumer, under the guise of separate corporate body and it was found that the appellant company was the very same corporate entity which committed default in paying the electricity charges. It was held that the appellant company was not an independent entity having no concern with the previous defaulter.

3. The present appellant company now contends that the previous judgment was passed at a time when the Directors of the appellant Company were Amit Dembada, Anita Dembada and Thakur Das Tejnani and it is now pointed out that the present Directors are Abhay Abad, Sridhar Natekar and Thakurdas Tejnani and the learned counsel for the appellant company further contended that the shareholders of the appellant company have also been changed and the details of the present shareholders are mentioned to be seven in number and they are not belonging to the family to Dembada. It is submitted that the previous defaulter M/s. Amar Amit Jalna Alloys Pvt. Ltd. was a family concern of Dembada and they have nothing to do with the present appellant company and the whole corporate entity has changed and the respondent MSEB is bound to give connection without insisting for the payment of electricity charges to be payable by M/s. Amar Amit Jalna Alloys Pvt. Ltd. The appellant company also contended that it is in possession of only 40 Ares of land out of the total property comprising Gut No. 953; Its total area bearing 2 hectares 82 Ares. The appellant company has also pointed out that M/s. Amar Amit Jalna Alloys Pvt. Ltd. was having factory on the north-eastern corner of the property whereas the appellant company is on the north-western corner side of the property.

4. The learned Counsel for the first respondent contended that the very same company had applied for connection and the Writ Petition filed by the appellant company previously was dismissed and the same was challenged before this Court and this Court dismissed SLP and there was further Review and Curative Petition and all of them were dismissed by this Court, and therefore, the appellant company was not justified in filing a fresh appeal.

5. We have carefully considered the rival contentions of both the parties. We are unable to accept the contention of the appellant company that by changing the members of the Board of Directors of the Company or by changing the

shareholding pattern, the appellant Company had undergone any change. The very same company wanted the electricity connection without making any payment towards the electricity charges payable by the previous consumer and the matter was dealt with in detail by the High Court and it was held that the appellant company is none other than the sister concern of M/s. Amar Amit Jalna Alloys Pvt. Ltd. and was representing the same consumer who had committed the default and it was held that Condition 23(b) of the Conditions of Miscellaneous Charges for supply of electricity energy would apply to the appellant Company. We do not think that by change of Directors or by change of pattern of the shareholding, the appellant company is really a different entity than M/s. Amit Products (India) Ltd. who filed the previous Writ Petition No. 2090/2002. The reasons given in the previous Judgment which were confirmed by this Court would apply with all force against the present appellant company and the High Court has rightly dismissed the Writ Petition filed by the appellant Company.

6. We find no reason to interfere with the impugned judgment and the appeal is dismissed.