

**(2017) 04 GUJ CK 0136**  
**In the Gujarat High Court**  
**Case No : 1212 of 2013**

Paschim Gujarat Vij Co. Ltd. & 1

APPELLANT

Vs

Kantaben Jayantilal Radadia

RESPONDENT

**Date of Decision : 24-04-2017**

**Acts Referred:**

[Constitution of India](#), [Article 21](#) - Amendment of the Schedule  
[General Clauses Act, 1897](#), [Section 6](#), [Section 24](#) - Effect of repeal - Continuation of orders, etc., issued under enactments repealed and re-enacted  
[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court  
[Electricity Act, 2003](#), [Section 126](#), [Section 37](#), [Section 18](#), [Section 26](#), [Section 69](#), [Section 12](#), [Section 50](#), [Section 56](#), [Section 30\(1\)](#) - Assessment - Directions by Appropriate Government - Amendment of licence - National Load Despatch Centre - Notice to telegraph authority - Authorised persons to transmit, supply, etc., electricity - The Electricity Supply Code - Disconnection of supply in default of payment - Transmission within a State  
[Telegraph Rules, 1951](#), [Rule 443](#)

**Citation : (2017) 04 GUJ CK 0136**

**Hon'ble Judges : Anant S. Dave, A.Y. Kogje**

**Bench : Division Bench**

**Advocate : Dipak R. Dave, P.J. Kanabar**

## Judgement

1. In this appeal under Clause 15 of the Letters Patent preferred by the appellant, the challenge is to the oral judgment dated 23.9.2013 passed by learned Single Judge in Special Civil Application No. 11400 of 2010, whereby the impugned action of the respondent No. 1, Paschim Gujarat Vij Company Limited, of disconnecting the power supply to the original petitioner/respondent herein on the basis of notice dated 23.7.2010 impugned therein, came to be quashed and set aside. 2. Before we advert to the controversy involved in this appeal, we

would like to refer to certain undisputed facts emerging from the affidavit-in-reply filed by respondents in the writ petition about outstanding electricity dues against one Jayantilal Devjibhai Radadiya, husband of the respondent herein - original writ petitioner towards electricity supply to a premise of Vishnukrupa Quarry Works, a partnership firm, to which Jayantilal Radadiya was administrator and also a partner, where theft of electricity was detected by taking direct cable from switch bypassing the meter, for which supplementary bill of Rs.8,11,246.47 ps. was issued and Civil Suit No. 59 of 2001 was filed for recovery of Rs.7,99,416.47 and thereafter once again on 12.10.2000, when the said premise was checked again it was found committing power theft and there was no consumer connection for taking electricity supply and further supplementary bill of Rs. 9,36,373.19 ps. was issued as it was unpaid and for its recovery Civil Suit No. 58/2001 was filed. 3. In the Civil Suit No. 59 of 2001, decree was passed on 14.12.2006 for the recovery of the amount so claimed with 12% interest and Civil Suit No.58 of 2001 also for recovery of the amount claimed with 12% interest and against which First Appeal No.4218 and 4518 of 2007 filed before this Court by aggrieved person in which no stay was granted. Execution Application No.4 of 2009 and 5 of 2009 have been filed before learned Principal Senior Civil Judge, Amreli, for recovery of Rs.18,44,322.212 ps. and Rs.15,75,225.21 ps. respectively in which Jangam warrants for the execution of decree have been issued by learned Executing Court. 4. In the above backdrop of the factual scenario, the appellant Paschim Gujarat Vij Company Limited issued notice dated 23.7.2010 treating wife and son of Jayantilal as defaulters by invoking powers under Section 56 of the Indian Electricity Act, 2003 which received Presidential assent on 26.05.2003 and came into force with effect from 10.06.2003. 5. Before learned Single Judge contentions were raised on law as well as on facts by the petitioner, wife of the defaulter that notices impugned therein for disconnection of electricity were inherently illegal since electricity supply to a residential premise belonging to the petitioner for which no dues were outstanding for any kind of payment and default was committed by a partner of Vishnukrupa Quarry Works, for which under no circumstances, owner of the residential premise viz. wife of the defaulter was in any manner responsible or answerable. The residential house for which electricity supply was sought to be disconnected was admittedly in the name of the petitioner, wife of the defaulter as shown in the record of Village Panchayat for which even a certificate was issued by the office-bearer of Village Panchayat. Thus, action of the electricity company was under challenge on the basis of illegal exercise of power having no base under Electricity Act, 2003. As against above, the stand of the electricity company was based on the strength of regulations 4.1.11 and 6.4.7 and word "any" used in the regulation that would mean that the power supply could be disconnected for any other premises of the consumer in case if he defaulted in respect of even other connections. Even under Rule 443 of the Telegraphic Rules under Indian Telegraphic Act were pressed into service by raising a contention that though no such specific rule exist under Indian Electricity Act 2003, an analogy could be drawn in the facts and circumstances of

the case when transfer of the residential house/premise belonging to defaulter of Vishnukrupa Quarry Works was sham and fictitious and not supported by any legal mode of transfer. The above arrangement, according to learned counsel for Electricity Company, was made only with a view to avoid recovery of dues of the electricity company. Therefore, it was submitted that action of respondent Electricity Company in issuing the notice for disconnection of electricity supply to the residential house in the name of wife of the defaulter was just and proper exercise and in consonance with the provisions of the Indian Electricity Act, 2003, Rules and Regulations made thereunder. Learned Single Judge after adverting to certain facts and submissions made, as above, by learned counsel appearing for the parties raised following two issues or aspect to be considered. (I) Whether in case of default by person, who is a consumer regarding one electricity line then another electricity connection in the name of said consumer could be disconnected? (II) Whether electricity supply could be disconnected in respect of residential premises of other persons merely because they are close relatives, viz. wife and son on the ground of default in payment regarding other electricity connection? 6. After considering the submissions made by learned counsel for the parties and addressing the issues in the above terms of reference, learned Judge relied on a decision in the case of Samantha v. State of Andhra Pradesh reported in 1997 (8) SCC 1991 and reference to Article 21 of the Constitution of India which means something more than mere survival of an animal existence and right to life that human dignity with minimum sustenance and shelter and all those rights and aspects of life, which would go to make a men's life complete and worth living and found supply of electricity includes in it and Article 21 embodies right to have electricity supply based on another decision of Kolkata High Court in the case of Molay Kumar Acharya v. Chairman-cum-Managing Director, West Bengal State Electricity Distribution Co. Ltd. reported in AIR 2008 Cal. 47, took support to uphold the contention of the writ-petitioner along with dictionary meaning of consumer, occupier of premises. According to learned Single Judge submissions administered by learned counsel for the electricity company about power to disconnect supply of any line for default of another person and regulation referred to were not applicable. Thus, by holding that for one default of consumer for one line, another electricity line or connection could not be disconnected and such exercise of power was termed as arbitrary and without jurisdiction. 7. Admittedly, before learned Single Judge contentions were not raised based on applicability of Section 56 of the Electricity Act, 2003 or for that matter any other provisions either of Indian Electricity Act, 2010, Electricity Supply Act 1948 or even the Indian Electricity Act 2003 and not even undisputed facts about default on the part of defaulter husband of the petitioner to the tune of more than Rs.34 Lacs to be recovered by electricity company. 8. Shri Dipak Dave, learned counsel for the appellant, Paschim Gujarat Vij Company Limited would contend that the petitioner was not entitled to the relief under equitable jurisdiction in view of specific contention raised based on outstanding electricity dues of a defaulter, who was staying in the same residential premise and transferring the house in the name of his wife. The fact

about name of the petitioner, wife of the defaulter in the record of Village Panchayat by itself was not a legal mode of transfer of property in absence of any valid document or any conveyancing including that of a gift. Such transfer was with a view to avoid recovery of electricity dues. Next it is contended that learned Single Judge overlooked the provisions of Clause 4.1.11 and 6.4.7 where words used in clause 6.4.7, "for that purpose cut or disconnect any electricity supply line or other works being the property of such licensee." That interpretation put-forth by learned Single Judge would result into negating mandate of the legislation and further powers invoked by the Electricity Company are in addition to the remedy of recovery of outstanding electricity dues by filing a suit. That protection of Article 21 of the Constitution of India extended to the petitioner for restoring the connection of electricity supply amounts to putting the premium to dishonest attempts of the defaulter, who has successfully evaded payment of electricity dues pertaining to detection of theft of electricity. 8.1. Learned counsel for the Electricity Company has invited our attention to various definitions contained in Sections 2 (15) "consumer", (20) Electricity Line, (40) "Line", (49) "Person", (51) "Premises" and Section 56 read with Section 185 of the Indian Electricity Act, 2003 and contended that legal action initiated for recovery of dues by taking recourse to filing of the suit prior to enactment and enforcement of the Act 2003 resulting into passing judgment and decree in favour of the Electricity Company declaring that its entitlement to recover said dues would be a continuous action in accordance with law and is saved by above Section 185 of the Indian Electricity Act. "2. Definitions. (15) "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be; (20) "electric line" means any line which is used for carrying electricity for any purpose and includes- (a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and (b) any apparatus connected to any such line for the purpose of carrying electricity; (40) "line" means any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and includes any line which surrounds or supports, or is surrounded or supported by or is installed in close proximity to, or is supported, carried or suspended in association with, any such line; (49) "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person; (51) "premises" includes any land, building or structure; 8.2. After drawing attention of this Court to the relevant provisions, learned Advocate for the appellants submitted that the respondent is guilty of suppressing facts and has not approached this Court with clean hands. The respondent, knowing full well that her husband is a defaulter, has fraudulently transferred the property from name

of her husband to her name and without disclosing sham and fraudulent transfer, managed to receive electric connection. He submitted that the nature of transfer of the property in the name of the respondent from her husband's name cannot be termed to be a valid transfer under the provisions of Transfer of Property Act. He submitted that the respondent wishes this Court to consider transfer of immovable property on the basis of an application made in writing dated 18.07.2009 to office of Amrapara Gram Panchayat to record name of the respondent (wife of the defaulter) as the owner of such immovable property. Such letter to Gram Panchayat is not a recognized form for transfer of property and therefore, it is apparent that to preclude the appellant company from executing "jungum" warrant on the immovable property of the defaulter, his property is sought to be projected as the property of the respondent (wife). He submitted that the husband of the petitioner - Jayantilal Radadia had purchased the plot in village Amrapara on 24.07.1972 and the sham transfer in the name of the respondent wife took place on 18.07.2009, i.e. after Execution Application Nos. 4 of 2009 and 5 of 2009 were filed by the appellant company. 8.3. He further submitted that the Single Judge ought to have taken into consideration the legislative intent behind the provisions of Clauses-4.1.11 and 6.4.7, which clearly disentitle the respondent from connection or reconnection of the power supply until amount due and payable to the appellant company is cleared. 8.4. He submitted that the decree drawn in favour of the appellant company by the Civil Court in the respective suits is nothing but confirmed dues of the appellant company and for recovery of such dues, the appellant company is entitled to resort to the provisions under the Electricity Act, 2003, even if such dues are pertaining to the bills raised prior to Electricity Act, 2003. He submitted that mere filing of an appeal against the decree in favour of the appellant, especially when no stay is granted by the appellate forum, will not deprive the appellant company from resorting to any action available to the company under the Electricity Act, 2003. He submitted that out of two SCAs disposed of under common oral judgment, LPA No.1213 of 2013 has been disposed of by this Court vide order dated 13.10.2016. 8.5. He submitted that Section 56 of the Electricity Act, 2006 empowers the appellant company to disconnect any electric supply line which reaches the property of a defaulter and such discontinuation of the supply can be continued until such charge or other sum together with any expense incurred in cutting off and reconnection are paid. He submitted that the word "any" electric supply line in the instant case should also include the electric supply line which is reaching the property of the respondent which originally belonged to defaulter and surreptitiously transferred in the name of the respondent. 8.6. He relied upon decision of the Apex Court in the case of Executive Engineer, Southern Electricity Supply Company of Orissa Limited (Southco) & Anr. v. Sri Seetaram Rice Mill, reported in (2012) 2 SCC, 108, to substantiate his argument that a purposive interpretation be given to word "any" which appears in Section 56 so as to include the connections of near relatives of a defaulter, especially when such connections are on the premises which are transferred under sham transaction. 8.7. He further relied upon decision of the

Apex Court in the case of *Surjit Singh v. Mahanagar Telephone Nigam Limited*, reported in (2009) 16 SCC, 722, wherein in an identical fact situation of default of payment of telephone bill by husband, another telephone line in the name of his wife was disconnected. He submitted that the analogy of the case can be properly applied to the facts of this case to uphold action of the appellant company. 9. As against this, learned Advocate Mr. Kanabar for the respondent has strongly supported the judgment of the Single Judge and contended that Section 56 of the new Act is not at all applicable to the facts of this case. He submitted that the dues, if any, are of the year 2000 and the same were pertaining to commercial connection at altogether different premises, where the husband of the respondent was only one of the partners. This itself would not be sufficient cause for the company to invoke provision of law, which was not even in existence when the alleged default took place. Mr. Kanabar drawn our attention to the stand taken by the respondent since beginning at the time of answering notice that the petitioner is an independent individual who has received electric connection by resorting to legal means and the premises on which such connection is received, cannot be termed to be in exclusive ownership or possession of her husband. He submitted that even on the basis of show cause notice of the appellant company and subsequent communication in that regard, it has always been the case of the company to recover the dues of the husband on the basis of decree drawn in the Civil Suit filed by the appellant company against the partnership firm, where husband of the respondent was, but one partner only and therefore, the entire action of recovery so directed on the strength of the decree, which is now subject matter of appeal before this Court. Therefore, the impugned action of the appellant company to resort to the provisions of the new Act, especially Section 56 is an act of frustrating the legitimate legal proceedings instituted by the husband of the respondent. He submitted that the connection given to the wife is under the new Act whereas dues sought to be recovered are pertaining to electric connection maintained under the old Act. Therefore, action of the appellant company is an attempt to give retrospective effect to the new Act, which is not tenable in law. 9.1. He further submitted that where the execution petitions of the appellant company are pending, the appellant company has no other scope but to pursue the execution application and it is not open to circumvent the due process laid down by law and resort to the provision which is not applicable, as an afterthought. 9.2. In support of his contention of prospective operation of Section 56(2) of the Electricity Act, 2003, he relied upon judgment in the case of *Abdul Nazer v. Karnataka State Electricity Board*, reported in 2006 AIR (Ker.) 203. 9.3. He then relied upon decision in the case of *KSE Board v. Najeeb*, reported in 2004 Law Suit (Ker.) 516, to support of his contention that on account of new Electricity Act, 2003 coming into existence, the Indian Electricity Act, 1910 having been repealed then Sections of the Indian Electricity Act, 1910 and the regulations framed for condition of supply would not apply and hence, in the instant case also, when the dues are pertaining to the connection under the old Act and that those connections have been dealt with in accordance with the old Act, the action

on the altogether different electric connection under the new Act is not tenable in law. 10. We have heard learned Advocates for the respective parties. 11. At the outset, this Court would like to distinguish the situation where electric connection running bonafide in the name of a close relative of a defaulter from the electric connection which is transferred to a close relative in somewhat doubtful situation. As the facts of this case does not demand dealing with a bonafide electric connection of a close relative of defaulter, this Court may not deal with the same. However, the fact situation which definitely demands to deal with a situation where electric connection of a close relative of the defaulter is not bonafide or that the same is transferred from the name of the defaulter to his close relative ostensibly to avoid consequence of the application of provisions of law then the Court would not come to the rescue of such electric connection. 12. As is evident from the facts narrated here-in-above, the respondent herein is wife of a defaulter, from whom the appellant company has to recover dues for the power theft committed by her husband for an amount, which has already been decreed by the concerned Civil Court and for which two execution applications for recovery of amounts of Rs. 18,44,322.12 and Rs. 15,75,225.21 are respectively initiated and when in the year 2009, when such execution proceedings have been initiated, the property, which was running in the name of the husband of the respondent since 1972, was sought to be transferred by addressing a simple letter to the Gram Panchayat, which appears to have obliged by carrying out changes in its records in the year 2009 and the connections which are in question in the present case, on the strength of such sham change in the name of the owner of property, necessarily must be considered to be a connection running in the name of defaulter. Support can be drawn from the judgment of Surjit Singh (supra), where the appellant was having two telephone lines in his name, one at his residence and another at his business premises, in addition to another line at his residence in the name of his wife and when bill for telephone lines running in the name of wife was not paid, the telephone company disconnected both the lines running in the name of the husband, where the Supreme Court dismissed the appeal of the husband by rejection the contention that defaulter was his wife and not the appellant before the Apex Court itself. Applying Rule 443 of the Telegraph Rules, the Apex Court proceeded to held as under:- "21. It is true that on a literal interpretation of Rule 443, we would have to accept the contention of learned counsel for the appellant. However, in our opinion, in this case, the literal rule has not to be adopted, because we have also to see the intention of the rule. The intention obviously was that payment of telephone dues should be made promptly, otherwise the telephone department will suffer. We have, therefore, to take an interpretation which effectuates and furthers the intention of Rule 443, i.e. the telephone bills should be paid in time. 22. In the case of a wife who is a housewife and is economically dependent on her husband, obviously the telephone bills in connection with the line in her name are being paid by her husband and not by herself. Hence, we have to adopt a purposive construction in this case and not go by the literal rule of interpretation." 13. To deal with the contentions of the respondent about non-

applicability of the Electricity Act, 2003 on the ground that the petitioner is not a defaulter under the Electricity Act, 2003 and that the action against the petitioner was initiated and concluded under the old Act, i.e. Electricity Act, 1948, it would be necessary to reproduce Section 56 and Section 185 of the New Act:- "56. Disconnection of supply in default of payment.- (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days" notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer: Provided that the supply of electricity shall not be cut off if such person deposits, under protest,- (a) an amount equal to the sum claimed from him, or (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee. (2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity. 185. Repeal and saving. - (1) Save as otherwise provided in this Act, the Indian Electricity Act, 1910 (9 of 1910), the Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998) are hereby repealed. (2) Notwithstanding such repeal,-- (a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; (b) the provisions contained in sections 12 to 18 of the Indian Electricity Act, 1910 (9 of 1910) and rules made thereunder shall have effect until the rules under sections 67 to 69 of this Act are made; (c) the Indian Electricity Rules, 1956 made under section 37 of the Indian Electricity Act, 1910 (9 of 1910) as it stood before such repeal shall continue to be in force till the regulations under section 53 of this Act are made. (d) all rules made under sub-section (1) of section 69 of the Electricity (Supply) Act, 1948 (54 of 1948) shall continue to have effect until such rules are rescinded or modified, as the case may be; (e) all directives issued, before the commencement of this Act,

by a State Government under the enactments specified in the Schedule shall continue to apply for the period for which such directions were issued by the State Government. (3) The provisions of the enactments specified in the Schedule, not inconsistent with the provisions of this Act, shall apply to the States in which such enactments are applicable. (4) The Central Government may, as and when considered necessary, by notification, amend the Schedule. (5) Save as otherwise provided in sub-section (2), the mention of particular matters in that section, shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals. 13.1. Section 185(2)(a) makes provision for anything done or any action taken or purported to have been done or taken under the repealed laws shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been taken or done under the corresponding provisions of this Act. 13.2. Section 56 provides for actions available to the Electricity company against a person who has neglected to pay any charge for electricity or any sum other than charge for electricity due from him. In the instant case, the dues of the Electricity company against husband of the petitioner have already crystallized by way of a decree of the Court and that too against the electricity charges. Hence, the Electricity company was very much within its Rights to invoke the provisions of the Electricity Act, 2003. 14. The Apex Court in the case of Executive Engineer, Southern Electricity Supply Company of Orissa Limited (Southco) (supra), where the case was pertaining to electric supply, has proceeded to give purposive interpretation to the expression "means" which occurs in the definition clause of Section 126 of the 2003 Act. Paras-45 to 50 of the aforesaid judgment read as under:- "45. The expression "means" used in the definition clause of Section 126 of the 2003 Act can have different connotations depending on the context in which such expression is used. In terms of Black's Law Dictionary (Eighth Edition) page 1001, "mean" is - "of or relating to an intermediate point between two points or extremes" and "meaning" would be "the sense of anything, but esp. of words; that which is conveyed". The word ordinarily includes a mistaken but reasonable understanding of a communication. "Means" by itself is a restrictive term and when used with the word "includes", it is construed as exhaustive. In those circumstances, a definition using the term "means" is a statement of literal connotation of a term and the courts have interpreted "means and includes" as an expression defining the section exhaustively. It is to be kept in mind that while determining whether a provision is exhaustive or merely illustrative, this will have to depend upon the language of the Section, scheme of the Act, the object of the Legislature and its intent. 46. "Purposive construction" is certainly a cardinal principle of interpretation. Equally true is that no rule of interpretation should either be over-stated or overextended. Without being over-extended or over-stated, this rule of interpretation can be applied to the present case. It points to the conclusion that an interpretation which would attain the object and purpose of the Act has to be given precedence over any other interpretation which may not further the cause of the statute. The development of law is

particularly liberated both from literal and blinkered interpretation, though to a limited extent. 47. The precepts of interpretation of contractual documents have also undergone a wide ranged variation in the recent times. The result has been subject to one important exception to assimilate the way in which such documents are interpreted by judges on the common sense principle by which any serious utterance would be interpreted by ordinary life. In other words, the common sense view relating to the implication and impact of provisions is the relevant consideration for interpreting a term of document so as to achieve temporal proximity of the end result. 48. Another similar rule is the rule of practical interpretation. This test can be effectuatedly applied to the provisions of a statute of the present kind. It must be understood that an interpretation which upon application of the provisions at the ground reality, would frustrate the very law should not be accepted against the common sense view which will further such application. 49. Once the court decides that it has to take a purposive construction as opposed to textual construction, then the legislative purpose sought to be achieved by such an interpretation has to be kept in mind. We have already indicated that keeping in view the legislative scheme and the provisions of the 2003 Act, it will be appropriate to adopt the approach of purposive construction on the facts of this case. We have also indicated above that the provisions of Section 126 of the 2003 Act are intended to cover the cases over and above the cases which would be specifically covered under the provisions of Section 135 of the 2003 Act. 50. In other words, the purpose sought to be achieved is to ensure stoppage of misuse/unauthorized use of the electricity as well as to ensure prevention of revenue loss. It is in this background that the scope of the expression "means" has to be construed. If we hold that the expression "means" is exhaustive and cases of unauthorized use of electricity are restricted to the ones stated under Explanation (b) of Section 126 alone, then it shall defeat the very purpose of the 2003 Act, inasmuch as the different cases of breach of the terms and conditions of the contract of supply, regulations and the provisions of the 2003 Act would escape the liability sought to be imposed upon them by the Legislature under the provisions of Section 126 of the 2003 Act. Thus, it will not be appropriate for the courts to adopt such an approach. 15. Applying the aforesaid principles of the Apex Court, this Court has no hesitation in holding that the connection running in the name of the respondent would be covered under the word "any" which occurs in Section 56 of the Act, 2003 with reference to electric supply line and hence, in the event of default of payment against electricity dues from the husband of the respondent, Section 56 has been rightly invoked against the respondent. 16. This Court is of the view that the dues which are now crystallised in view of judicial pronouncements under the civil suit of recovery of the dues towards electrical charges for the theft committed by the husband of the respondent, by invoking Section 56 would be permissible as Section 56 of the new Act is nothing but a procedure prescribed for taking an action against a person who has fallen in default. 17. The Apex Court in the case of *Swastic Industries v. Maharashtra State Electricity Board*, reported in 1997 AIR (SC), 1101, has maintained that the Electric Company

would have right to recover the charges as one part of action and right to discontinue the supply of electric supply to a consumer, who neglects to pay charges as second part of action. The Electric Company can maintain both the actions. 18. The argument of prospective application on the basis of judgment in the case of Abdul Nazer (*supra*), the Division Bench was considering the question of limitation in reference to arrears of dues and that the liability to pay energy charges being continuing liability, the consumer cannot be permitted to escape such liability on the plea of limitation. It is in this context, Section 56(2) of the Electricity Act, 2003 was interpreted for its prospective application. This, in view of this Court, may not come to the rescue of the respondent. 19. In the case of Najeeb (*supra*), the Kerala High Court was considering whether unauthorized use of electricity has to be assessed under Section 24(1) of the Indian Electricity Act, 1910 read with Regulation 42(d) of the Regulations relating to conditions of supply of electrical energy or under Section 126 of the Electricity Act, 2003. The Kerala High Court examined whether there is conflict between Section 126 of the Electricity Act, 2003 and Section 24 of the Indian Electricity Act, 1910 read with Regulation 42 and held as under:- "But for regulation 42 of the Conditions of Supply of Electrical Energy framed under Section 79(j) of the Electricity (Supply) Act, 1948 Section 24 of the Indian Electricity Act, 1910 as such would not apply in the case of theft of energy detected by Anti-Power Theft Squad. Question is after having repealed Indian Electricity Act, 1910 the provisions of Regulations relating to Conditions of Supply of Electrical Energy, especially, regulation 42 would still apply and consequently the said provision would lend support to Section 56 of the Electricity Act, 2003 so as to support Ext. P8 bill raised in this case. Further question is whether Regulation 42 of Regulations Relating to Conditions of Supply of Electrical Energy framed under the repealed Act is in conflict with Section 126 of the Electricity Act, 2003, in the event of which whether Regulation 42 would be saved by Section 185 read with Section 24 of the General Clauses Act. Contention was raised that Section 185 refers only to Section 6 of the General Clauses Act and therefore Section 24 of the General Clauses Act would not apply. This contention is no more available in view of the decision of the Apex Court in *State of Punjab v. Harnek Singh*, AIR 2002 SC. 1074. In that case investigation was commenced by the Inspectors of Police on the notification issued under the Prevention of Corruption Act, 1947. The said Act was repealed by Prevention of Corruption Act, 1988. On repeal of 1947 Act accused filed petitions under Section 482 for quashing FIR registered on the ground that investigation had not been conducted by authorised officers under 1988 Act. Apex Court held that the proceedings are not liable to be quashed. Applying Section 24 of the General Clauses Act, the Apex Court held by notifications issued under 1947 Act authorising Inspectors of Police in Special Inquiry Agency of Vigilance Department, Punjab Government to investigate cases registered under the said Act are saved under saving provisions of re-enacted 1988 Act. In that case also contention was raised that Section 24 of the General Clauses Act was not saved. Apex Court held as follows: "We do not find any force in the submission of the learned counsel appearing for the respondents that as

reference made in Sub-section (2) of Section 30 of 1988 Act is only to Section 6 of General Clauses Act, the other provisions of the said Act are not applicable for the purposes of deciding the controversy with respect to the notifications issued under the 1947 Act. We are further of the opinion that the High Court committed a mistake of law by holding that as notifications have not expressly been saved by Section 30 of the Act, those would not ensure or survive to govern any investigation done or legal proceeding instituted in respect of the cases registered under the 1988 Act. There is no dispute that 1988 Act is both repealing and re-enacting the law relating to prevention of corruption to which the provisions of Section 24 of the General Clauses Act are specifically applicable. It appears that as Section 6 of the General Clauses Act applies to repealed enactments, the Legislature in its wisdom thought it proper to make the same specifically applicable in 1988 Act also which is a repealed and re-enacted statute. Reference to Section 6 of General Clauses Act in Sub-section (1) of Section 30 has been made to avoid any confusion or mis-understanding regarding the effect of repeal with regard to actions taken under the repealed Act. If the legislature had intended not to apply the provisions of Section 24 of the General Clauses Act to the 1988 Act, it would have specifically so provided under the enacted law. In the light of the fact that Section 24 of the General Clauses Act is specifically applicable to repealing and re-enacting statute, its exclusion has to be specific and cannot be inferred by twisting the language of the enactments. Accepting the contention of the learned counsel for the respondents would render the provisions of 1988 Act redundant inasmuch as appointments, notifications, orders, scheme, rules, bye-laws, made or issued under the repealed Act would be deemed to be non-existent making impossible the working of the re-enacted law impossible. The provisions of the 1988 Act are required to be understood and interpreted in the light of the provisions of the General Clauses Act including Section 6 and 24 thereof. The provisions of Electricity Act, 2003 are therefore required to be understood and interpreted in the light of the provisions of the General Clauses Act including Section 6 and 24 thereof. Regulations Relating to Conditions of Supply of Electrical Energy therefore would apply so far as it is not inconsistent with the provisions of the re-enacted Act, that is, Electricity Act, 2003. Regulations which are not inconsistent with Section 126 and other related provisions would apply till Electricity Supply Code is framed under Section 50 of the Electricity Act, 2003." 20. In view of the aforesaid, this Court is of the view that the appellant company was justified in invoking the provisions of new Electricity Act, 2003, particularly Section 56 against the respondent being an independent procedure in the direction of safeguarding the dues of electric charges on account of theft of electricity. The impugned oral judgment dated 23.09.2013 is hereby quashed and set aside. The appellant company may now proceed further under the provisions of law as applicable to the facts of the present case. The appeal is allowed. No order as to costs. At this stage, Mr.P.J. Kanabar, learned Counsel for the respondent requests to continue stay of implementation and operation of this judgment for a reasonable period so as to enable the respondent to approach the Apex Court, to

which Mr. Dipak Dave, learned Counsel for the appellants has objection. If the respondent herein deposits 50% of the amount due of the subject matter within a period of one week from today, this judgment shall remain inoperative for a period of four weeks from today. Accordingly, request is accepted to the extent as above. Appeal is allowed.