CGHC010011912026 2026:CGHC:34373-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

<u>WA No. 136 of 2026</u>

1 - Polybond Rock Fibre Pvt Ltd. A Company Duly Registered Under Revelant Provisions Of The Companies Act 1956, Having Its Registered Office At Chitlangia Compund Basantpur Rajnandgaon Chhattisgarh Through Its Authorized Signatory/ Coordinator Shri Hira Swami Naidu, S/o Late Narayan Swami Naidu Aged Aboiut 56 Years R/o Dipak Nagar Near Nirankari Satsangh Bhawan, Durg Chhattisgarh

2 - Hira Swami Naidu S/o Late Narayan Swami Naidu Aged About 56 Years Authorized Signatory/ Coordinator R/o Dipak Nagar, Ploybond Rock Fibre, Pvt. Ltd. Rajnandgaon And Resident Of Near Narankari Satsangh Bhawan Durg Chhattisgarh Civil And Revenue Distirct Rajnandgaon Chhattisgarh

... Appellants

versus

1 - Chhattisgarh State Power Distribution Company Limited (CSPDCL) A Company Incroprated Under The Relevant Provisions Of The Companies Act 1956 And A Power Sector Undertaking Of The State Government Of Chhattisgarh And A Successor Of Chhattisgarh State Electricity Board C.S.E.B. Having Its Registered Office At 4th Floor, Vidyut Sewa Bhawan, Daganiya Raipur Chhattisgarh

2 - Chhattisgarh State Electricity Regulatory Commission C.S.E.R.C. A Body Corporate Constituted Under Section 82 Of The Electricuty Act. 2003 Having Its Head Office At G.E. Road, Civil Lines, Raipur Chhattisgarh

3 - State of Chhattisgarh Through The Secretary, Ministry of Energy, Mahanadi Bhawan, Mantralaya, Naya Raipur, Distirct Raipur Chhattisgarh

4 - Bank of India Through Its Branch Manager, Rajnandgaon Branch Fawwara Chowk, Digvijay College Road, Rajnandgoan Chhattisgarh

... Respondents

For Appellants	:	Mr. Sameer Uraon, Advocate
For Respondent No.1/CSPDCL	:	None
For Respondent No.2/CSERC	:	Ms. Meena Shastri, Advocate
For Respondent No.3/State	:	Mr. Sangharsh Pandey, GA
For Respondent No.4/Bank	:	Mr. Anand Shukla, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Naresh Kumar Chandravanshi, Judge

JUDGMENT ON BOARD

***Per* Ramesh Sinha, Chief Justice**

06.08.2026

1. Heard Mr. Sameer Uraon, learned counsel for the appellants. Also heard Ms. Meena Shastri, learned counsel, appearing for respondent No.2/CSERC, Mr. Sangharsh Pandey, learned Government Advocate, appearing for respondent No.3/State and Mr. Anand Shukla, learned counsel, appearing for respondent No.4/Bank.

2. By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the appellants / writ petitioners have challenged the order

dated 05.12.2025 passed by learned Single Judge in WPC No.2752 of 2016 ***(Polybond Rock Fibre Pvt. Ltd. & Another Vs. Chhattisgarh State Power Distribution Company Limited (CSPDCL) & Others)***, by which the writ petition filed by the writ petitioners/ appellants herein has been dismissed by the learned Single Judge.

3. Brief facts, necessary for disposal of this appeal, are that earlier Arihant Rock Wool Fibre Pvt. Ltd. Rajnandgaon (for brevity, 'Arihant') operates a plant over the land bearing Khasra No.887/1 & 888 total area 2.04 acres situated at village Bakal, Tehsil Dongargaon, District Rajnandgaon. For operating the said plant, Arihant availed loan facility from the respondent No.4/ Bank. However, on account of default committed by Arihant in repaying the loan amount, the respondent No.4 after following the due process of law as enumerated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, "SARFAESI Act"), took possession of the property of Arihant. Thereafter the auction notice dated 19/04/2012 has been published for sale of the said property. In the said process, the writ petitioners participated wherein after being declared successful, they paid the sale consideration of Rs.2,62,18,000/-. Thereafter the bank handed over the sale certificates of the movable and immovable properties of Arihant to the writ petitioners. According to the writ petitioners, in the sale certificate, it is clearly mentioned that 'the sale of the schedule

property was free from all encumbrances known to the secured creditor'. Subsequently when the petitioners intended to start production or run the plant, applied for electricity connection with the respondent No.1 and at that time, they came to know that there were outstanding dues on the part of Arihant since 2008 and for which the electricity connection has been permanently disconnected. The petitioners tried his level best to convince the authorities that they are not liable to pay any electricity dues of Arihant. Despite the said fact, the respondent No.1 asked the petitioners to pay an amount of Rs.17,67,873/- failing which recovery proceedings will be initiated. To get immediate electricity connection, the petitioners paid the said amount and thereafter running from pillar to post for getting refund of the same. According to the petitioners, the respondent No.4/Bank has also denied its liability and even the respondent No.1 is not acceding the request of the petitioners in this regard. Being aggrieved by the same, the writ petitioners approached this Court by filing writ petition, which was registered as WPC No. 2752 of 2016 and the said writ petition was dismissed by the learned Single Judge vide impugned order dated 05.12.2025. Hence, this appeal.

4. Learned counsel for the appellants vehemently argued that the learned Single Judge has erred in invoking the ratio of ***K.C. Ninan v. Kerala State Electricity Board & Ors.*****, (2023) 14 SCC 431** by relying only upon paragraphs 137 and 138 while completely overlooking the significance of paragraph 148. He

further argued that the Hon'ble Supreme Court has unequivocally held in paragraph 148 that the effect of an "as is where is" ("जहाँ है, जैसी है, जो है") clause cannot be determined in isolation and that the facts of each case, together with the precise terminology of the auction conditions, must be examined to arrive at an equitable conclusion. It is submitted that in the present case, the auction notice issued by the Bank of India expressly stated that although the purchaser would bear liabilities attached to the property, **no encumbrance or liability was presently known to the Bank** ("वर्तमान में कोई भी भार ज्ञात नहीं है"). Acting upon this categorical representation, the appellants participated in the auction, purchased the property and thereafter applied for a fresh electricity connection. He further submitted that once the secured creditor represented that no known liability existed, the respondents cannot subsequently compel the appellants to discharge undisclosed electricity dues of the previous consumer. The learned Single Judge failed to examine the auction conditions in their entirety as mandated by paragraph 148 of *K.C. Ninan*, thereby rendering the impugned judgment legally unsustainable.

5. Learned counsel for the appellants further submitted that the issue is also governed by the settled principles laid down in ***Isha Marbles v. Bihar State Electricity Board*****, (1995) 2 SCC 648,** wherein the Hon'ble Supreme Court categorically held that electricity dues arise out of a contractual relationship between the electricity supplier and the erstwhile consumer and that such

contractual liability cannot ordinarily be enforced against a bona fide auction purchaser. ***K.C. Ninan*** does not dilute or overrule this principle; rather, it requires the Court to examine the applicable statutory provisions and the specific terms governing the auction sale. He also submitted that in the present case, Clause 10.19 of the Chhattisgarh State Electricity Supply Code, 2005-08 further fortifies the appellants' case by providing that no sum due from a consumer shall be recoverable after two years from the date when it first became due unless it has been continuously shown as recoverable as arrears. The alleged dues pertain exclusively to the previous consumer, no electricity was ever supplied to the appellants under the earlier connection, and the respondents have neither pleaded nor established that such arrears were continuously shown as recoverable. Consequently, the claim had become legally unrecoverable, and the respondents could not insist upon payment of such time-barred dues as a pre-condition for granting a fresh electricity connection. He contended that although this specific contention was raised in paragraph 8.6 of the writ petition, the same has remained wholly unaddressed in the impugned judgment.

6. Learned counsel for the appellants also submitted that the respondents' insistence upon payment of the previous consumer's arrears is also contrary to the principles governing contracts of adhesion. The respondent Electricity Board enjoys a statutory monopoly in the supply of electricity, leaving a prospective

consumer with no real bargaining power except to accept the standard-form conditions imposed by the licensee. It is submitted that in ***LIC of India v. Consumer Education & Research Centre*, (1995) 5 SCC 482**, the Hon'ble Supreme Court held that unfair, unreasonable and unconscionable clauses contained in such standard-form or dotted-line contracts are amenable to judicial scrutiny. In the facts of the present case, compelling a bona fide auction purchaser to satisfy the contractual liabilities of a previous consumer, despite the Bank's representation that no known encumbrance existed and despite the statutory limitation contained in Clause 10.19 of the Supply Code, is manifestly arbitrary, inequitable and contrary to the law declared by the Hon'ble Supreme Court. He lastly submitted that the impugned judgment, having overlooked these vital aspects, calls for interference, and the appellants are entitled to a declaration that they are not liable to discharge the electricity dues of the previous consumer and that a fresh electricity connection ought to be granted without insisting upon payment of such arrears.

7. Per contra, learned counsel appearing for respondent No.2/ CSERC submitted that the learned Single Judge has rightly applied the law laid down by the Hon'ble Supreme Court in *K.C. Ninan* (supra). She further submitted that the appellants' reliance on paragraph 148 is misplaced, as the said paragraph only requires the Court to consider the facts and the terms of the auction sale. In the present case, the auction notice specifically

provided that **"**उक्त सम्पत्तियों पर सभी देयताओं का भार क्रेता पर होगा**,"** thereby clearly placing the liability of all dues upon the auction purchaser. The subsequent statement that no encumbrance was known to the Bank cannot bind the respondent Distribution Company or extinguish its statutory right to recover electricity dues under the applicable Supply Code. It is further submitted that the decision in *Isha Marbles* (supra) does not lay down an absolute rule exempting every auction purchaser from liability. The law has since been explained in *K.C. Ninan*, which recognizes that where the applicable statutory provisions or conditions of supply permit recovery of outstanding dues before grant of a fresh connection, such recovery is legally sustainable. She lastly submitted that the appellants cannot derive any benefit from Clause 10.19 of the Chhattisgarh State Electricity Supply Code or the doctrine of contracts of adhesion. Clause 10.19 does not extinguish the outstanding dues; it only regulates the mode of recovery. Likewise, the conditions for release of a fresh electricity connection are statutory conditions framed under the Electricity Act, 2003, and not unconscionable contractual terms. The learned Single Judge has therefore committed no error, and the present appeal deserves to be dismissed.

8. Learned counsel for the respondent/Bank submitted that the Bank acted strictly in accordance with the provisions of the SARFAESI Act and the terms of the auction notice while conducting the sale of the secured asset. The auction notice clearly stipulated that **all**

liabilities attached to the property would be borne by the purchaser ("उक्त सम्पत्तियों पर सभी देयताओं का भार क्रेता पर होगा"). The statement that **no encumbrance was presently known to the Bank** was made only to the extent of the Bank's knowledge and cannot be construed as a warranty or assurance that no statutory dues were recoverable by any other authority. The Bank is neither the authority maintaining records of electricity dues nor is it competent to certify the absence of such dues. It is further submitted that the Bank has no role in the dispute relating to recovery of electricity dues by the Distribution Company. The auction sale was conducted on an **"as is where is, as is what is and whatever there is"** basis, and the rights and liabilities of the appellants vis-à-vis the Electricity Distribution Company are governed by the applicable statutory provisions and the terms of supply. The Bank neither demanded nor recovered any electricity dues from the appellants and, therefore, no cause of action survives against the Bank. Accordingly, the appeal, insofar as it concerns the Bank, deserves to be dismissed.

9. We have heard learned counsel for the parties and carefully perused the impugned order and the materials available on record.

10. The principal issue which arises for consideration in the present appeal is whether the appellants, who have purchased the property of the erstwhile consumer in an auction conducted by the

secured creditor under the provisions of the SARFAESI Act, can be compelled to clear the outstanding electricity dues of the previous consumer as a condition precedent for obtaining a fresh electricity connection, and whether the learned Single Judge has committed any error in dismissing the writ petition.

11. The undisputed facts reveal that the appellants purchased the assets of M/s Arihant Rock Wool Fibre Pvt. Ltd. in a public auction conducted by the respondent-Bank under the provisions of the SARFAESI Act. It is equally undisputed that prior to such auction, the electricity connection standing in the name of the erstwhile consumer had already been permanently disconnected on account of non-payment of electricity charges and substantial arrears were outstanding against the said consumer. It is also not in dispute that when the appellants applied for a fresh electricity connection, at that time the Electricity Department informed the petitioner that there is an outstanding dues of Rs.17,67,873/- to which the petitioner himself by letter dated 30/12/2012 (Annexure R/2-1) submitted an undertaking that first he will pay 25% of the dues and thereafter the remaining amount will be deposited in 10 equal installments and his request was accepted; he submitted the cheques which were duly encashed by the electricity company. Even for getting the electricity connection in its name; the petitioner deposited the security amount of Rs.11,08,000/-, which is evident from money receipt dated 18/02/2013 (Annexure R/2-3).

12. The principal contention of the appellants is founded upon paragraph 148 of the decision of the Hon'ble Supreme Court in *K.C. Ninan* (supra). According to the appellants, the learned Single Judge has considered only paragraphs 137 and 138 of the said judgment while overlooking paragraph 148, wherein it has been observed that the effect of an "as is where is" clause has to be examined in the light of the facts of each case and the terminology of the auction conditions. We are unable to accept the aforesaid submission.

13. Paragraph 148 cannot be read in isolation divorced from the ratio of the entire judgment. The Hon'ble Supreme Court, after considering the earlier decisions including *Isha Marbles*, has authoritatively held that the liability of an auction purchaser would depend upon the statutory framework governing the field, the conditions of supply framed under the Electricity Act, 2003, as well as the specific terms governing the auction sale. Paragraph 148 merely reiterates that the effect of an "as is where is" clause must be gathered from the auction conditions and surrounding facts; it does not lay down that an auction purchaser is automatically absolved of all liabilities merely because the property has been sold on such terms.

14. In the present case, the auction notice issued by the respondent-Bank specifically stipulated in unequivocal terms that **"**उक्त सम्पत्तियों पर सभी देयताओं का भार क्रेता पर होगा।**"**

15. The above condition expressly informed every intending purchaser that all liabilities attached to the property would be borne by the successful bidder. The appellants participated in the auction with full knowledge of the said condition. Merely because the auction notice further mentioned that "no encumbrance was presently known to the Bank", it cannot be construed as an absolute warranty or guarantee that no statutory dues of any authority were outstanding. The said statement was evidently confined to the knowledge of the secured creditor and cannot extinguish or override the independent statutory rights of the electricity distribution licensee.

16. We also do not find any merit in the submission that the Bank's statement regarding absence of known encumbrances stops the Distribution Company from recovering its legitimate dues. The respondent-Bank and the respondent-Distribution Company operate under entirely different statutory regimes. The Bank was exercising its powers under the SARFAESI Act for realization of secured debts, whereas the Distribution Company exercises statutory powers under the Electricity Act, 2003 and the applicable Supply Code. Any representation made by the secured creditor cannot curtail or take away statutory powers conferred upon the Distribution Company under the governing law.

17. Much reliance has been placed by learned counsel for the appellants upon the decision of the Hon'ble Supreme Court in

Isha Marbles (supra). There can be no quarrel with the proposition laid down therein that electricity dues ordinarily arise out of a contractual relationship between the Board and the consumer. However, as noticed by the Hon'ble Supreme Court itself in *K.C. Ninan* (supra), the legal position has subsequently evolved after enactment of the Electricity Act, 2003 and the framing of statutory regulations and supply codes by various State Commissions. The Supreme Court has harmonised the earlier decisions by holding that where statutory provisions or conditions of supply authorize recovery of previous dues before grant of a fresh connection, such stipulations are legally enforceable. Therefore, *Isha Marbles* (supra) cannot be read as laying down an absolute proposition that under no circumstance can an auction purchaser be required to clear outstanding electricity dues.

18. The appellants have also sought to invoke Clause 10.19 of the Chhattisgarh State Electricity Supply Code, 2005-08. In our considered opinion, the said provision does not advance the case of the appellants. Clause 10.19 merely prescribes the circumstances under which recovery of electricity charges may be barred after expiry of two years unless the dues have continuously been shown as recoverable. The said clause regulates the mode and manner of recovery of electricity charges from the consumer and cannot be interpreted to mean that the liability itself stands extinguished after two years. The appellants have not placed any material on record to establish that the

statutory conditions governing release of a fresh electricity connection prohibit the Distribution Company from insisting upon clearance of outstanding dues before sanctioning supply. Moreover, the issue involved in the present case is not recovery through coercive proceedings but insistence upon compliance with the statutory conditions governing release of a fresh electricity connection.

19. Equally untenable is the submission founded upon the doctrine of contracts of adhesion as explained in *LIC of India v. Consumer Education & Research Centre*, (1995) 5 SCC 482. The requirement of payment of outstanding dues before release of a fresh electricity connection is not merely a contractual stipulation inserted by the Distribution Company at its own discretion. Such conditions emanate from statutory regulations framed under the Electricity Act, 2003 and possess statutory force. A statutory condition cannot be invalidated merely on the ground that the consumer has little bargaining power while entering into the agreement for supply of electricity. The doctrine of unconscionable contracts cannot be invoked to nullify a statutory obligation or condition having the force of law.

20. We also find no substance in the contention that paragraph 8.6 of the writ petition has not been specifically dealt with by the learned Single Judge. The impugned judgment demonstrates that the learned Single Judge has considered the controversy in its

entirety and has rightly applied the law laid down by the Hon'ble Supreme Court in *K.C. Ninan* (supra). Merely because every submission advanced on behalf of the appellants has not been separately discussed would not render the judgment vulnerable, once the ultimate conclusion is in consonance with the settled legal position.

21. So far as the respondent-Bank is concerned, we find considerable force in its submission that it has no role in the dispute relating to recovery of electricity dues. The Bank merely exercised its statutory powers under the SARFAESI Act to realise its secured debt. It neither demanded nor recovered any amount towards electricity charges from the appellants. The sale was conducted on "as is where is", "as is what is" and "whatever there is" basis, subject to the conditions incorporated in the auction notice. Consequently, no independent cause of action survives against the respondent-Bank.

22. In view of the foregoing discussion, we are of the considered opinion that the learned Single Judge has neither misapplied the decision of the Hon'ble Supreme Court in *K.C. Ninan* (supra) nor ignored any binding principle of law. The insistence of the Distribution Company upon clearance of the outstanding dues before release of a fresh electricity connection is supported by the applicable statutory framework and cannot be said to be arbitrary or illegal. The contentions advanced on behalf of the appellants

based upon paragraph 148 of *K.C. Ninan* (supra), *Isha Marbles*, Clause 10.19 of the Supply Code and the doctrine of contracts of adhesion are devoid of merit and do not warrant interference with the impugned order.

23. Consequently, finding no merit in the present writ appeal, the same deserves to be and is hereby **dismissed**. There shall be no order as to costs.

Sd/-	Sd/-
(Naresh Kumar Chandravanshi)	**(Ramesh Sinha**)
Judge	**Chief Justice**

Chandra