

		Date	Month	Year
1	Date of Receipt	30	11	2023
2	Date of Registration	01	12	2023
3	Decided on	30	01	2024
4	Duration of proceeding	60 days		
5	Delay, if any.	—		

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM

B.E.S. & T. UNDERTAKING

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,
BEST's Colaba Depot
Colaba, Mumbai - 400 001
Telephone No. 22799528

Grievance No. GN-491-2023 dtd. 01/12/2023

Tamilnadu Devendra Velalar SanghamComplainant

V/S

B.E.S.&T. UndertakingRespondent no. 1

Shri Rajesh NaymaniRespondent no. 2

Present

Chairman

Coram : Shri M.S. Gupta, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Smt. Manisha K. Daware, Technical Member

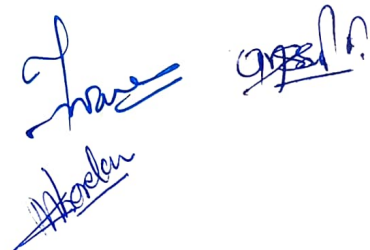
On behalf of the Respondent no. 1 : 1. Shri D.S. Thamke
2. Shri D.R. Ingale

On behalf of the Complainant : 1. Shri Boominathan Veeman Devendra

On behalf of the Respondent no. 2 : 1. Kailash Nana Gangurde

Date of Hearing : 15/01/2024

Date of Order : 30/01/2024



Judgment

- 1.0 The facts of the complainant's case, in short compass, are that the complainant is a registered trust under Maharashtra Public Trusts Act 1950 (for short "the Trust"). The property bearing no. 6, ground floor, 262,C, Poonawala Chawl, Dharavi Main Road, Opp. Abhyuday Bank, Dharavi, Mumbai - 400 017 (for short "the said property") has been purchased in the name of the Trust from one Shri Samuel Durai vide Affidavit dtd. 18/05/1999. The landlord of the said property consented to the said purchase. On 28/12/2015 Shri Samuel Durai had confirmed the said sale vide Affidavit cum Confirmation letter in the name of the Trust.
- 1.1 The Trust has obtained an electric connection under consumer no. 781-465-010 and meter no. C002257 (for short "the electric meter / electric connection") from the respondent no. 1 in the name of Shri Samuel Durai as senior member of Trust.
- 1.2 The complainant further submitted that in August 2023 the respondent no. 2 had created some fabricated documents and managed to transfer the electric connection in the said property in his name. When the Trust came to know about this change, it had raised an objection with the respondent no. 1 BEST Undertaking, but it was not considered. Under RTI, the complainant had been informed by the respondent no. 1 that transfer of electricity connection in the said property in the name of the respondent no. 2 was done as per order dtd. 24/05/2023 passed by AAMIGR Customer Care (G/N) (for short "IGR"). However, on 24/11/2023 the respondent no. 1 has disconnected the electric supply in the said property on the application of the respondent no. 2. Hence, the complainant requested to set aside the order dtd. 24/05/2023 passed by IGR; to restore the electric connection in the said property in the name of the Trust and in the alternative to install the electric meter with the same consumer account number and meter number as they have been staying in dark since 24/11/2023.
- 2.0 The respondent no. 1 by its reply contented that prior to February 2019 the electric bill in respect of the said electric connection was in the name of the respondent no. 2, Shri Rajesh Navmani. On 24/02/2019, the complainant Trust had applied for change of name. The respondent no. 1 further contented that as the documents submitted by the complainant Trust were found in order and sufficient to process its application for change of name, the electricity connection has been transferred in its name in April 2020.
- 2.1 The respondent no. 1 further contented that the respondent no. 2 raised objection for change of name effected in the month of April 2020 in the name of the complainant.

Accordingly, on 24/05/2023, IGR again directed to revert and restore the original name of the respondent no. 2.

- 2.3. Lastly, the respondent no. 1 contended that the complainant Trust may be directed to obtain appropriate order from the competent court in respect of its tenancy rights in the said property until then the electricity bill shall remain in the name of previous consumer i.e. the respondent no. 2.
- 3.0 The respondent no. 2 denied almost all material allegations set forth in the complaint contending that it is completely frivolous and untenable. The respondent no. 2 in his reply further contended that the complainant has made false and fabricated documents to grab the said property. Hence, he has filed criminal complaint bearing no. 93/2020 in Metropolitan Magistrate, 12th Court, Bandra, Mumbai against the Trust and the same is pending. On 10/01/2023, he had filed complaint against the complainant Trust before the IGR. After hearing the parties on May 2023, the said authority has passed an order in his favour. There is nothing to reconsider the similar complaint which was already taken into consideration by the competent authority.
- 3.1 The respondent no. 2 also contended that the dispute regarding ownership cannot be decided by this Forum. He also stated that the said property was gifted to him by his grandfather Shri Samuel Durai in 2018 who died on 22/09/2018. Accordingly, necessary transfers were carried out from the name of the owner i.e. Shri Samuel Durai to the respondent no. 2. He has been regularly paying the electricity bills. Hence, the respondent no.1 has no right to disconnect the electric supply in the said property. The complainant had raised false allegations to establish unauthorized possession over the said property. The complainant may have disconnected the electric supply to fulfill its ill and ulterior motive with malafide intention with the help of electrician. Hence, he claimed that the electric supply may be restored in the said property. Lastly, he contended that the complaint may be dismissed and the order dtd. 24/05/2023 passed by IGR may be confirmed.
- 4.0 From rival submissions of the parties following points arise for our determination with findings thereon for the reasons to follow.

Sr. No.	Points for determination	Findings
1	Whether the order dtd. 24/05/2023 passed by IGR is legal and valid ?	Negative
2	Whether the electric supply has to be restored in the said property?	Affirmative
3	What order ?	As per final order.

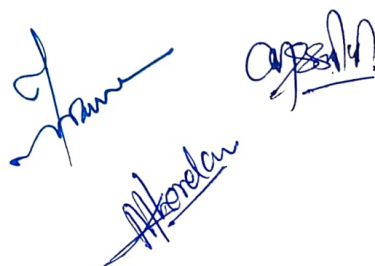
REASONS

5. Points no.1 and 2

Both these points are inter-linked, hence, they are dealt with conjointly.

- 5.1 Perusal of the documents on record reveals that one Shri Z.A. Aga is the landlord of the said property known as Aga's Estate, Poonawala Chawl i.e. the said property. One Shri Samuel Durai was the tenant of the said property since July 2008. The complainant claims that the said property was purchased by the complainant Trust, in the name of one of its members Shri Samuel Durai, much prior to 1999. However, no authentic document is submitted by the complainant to justify its contention.
- 5.2 According, to the complainant in 1999, Shri Samuel Durai had executed an Affidavit in its favour to the effect that he was simply managing and maintaining the said property and therefore, its electric bill was standing in his name. By the said Affidavit dtd. 18/05/1999 Shri Samuel Durai had relinquished all his rights pertaining to the said property in the favour of complainant Trust. Again, on 28/12/2015 Shri Samuel Durai had executed an Affidavit cum Confirmation letter in favour of the complainant Trust in respect of the said property. The complainant has also filed a copy of the statement dtd. 08/08/2021 of one Shri Johnson Samuel Durai, son of Shri Samuel Durai. The said statement was recorded by police inspector of Dharavi Police Station, Mumbai wherein Shri Johnson Durai clarified that the said property is of the complainant Trust and was taken from one Shri Yusuf Aga under pagdi system. As his father Shri Samuel Durai was educated and therefore rent receipts and electric bills were obtained in his name. He also submitted that the respondent no. 2 called him in 2018 and obtained his signature along with signature of his father forcibly on certain documents. His father died on 22/09/2018.
- 5.3 The complainant has also submitted the agreement of tenancy dtd. 19/08/2019 between Shri Yusuf Karim Aga and the complainant Trust. So, on the basis of this document the complainant submitted that the Trust is the lawful tenant of the said property and therefore, the electric bills ought to have been issued in its name.
- 5.4 Astonishingly, from the documents submitted by the respondent no. 1 BEST Undertaking, it is apparent that the complainant has submitted one agreement for sale dtd. 23/01/2019 executed by Shri Rajesh Navmani in its favour. The said document reveals that the respondent no. 2 had sold / transferred all his rights in the said property to the complainant Trust for a consideration of Rs. 9,00,000/- (Rs. Nine Lacs). On the very same day he had also executed an Affidavit in favour of the complainant Trust relinquishing his all rights in the said property.

- 5.5 From the documents submitted by both the parties, a very interesting question arose that had it been a fact that in 1999 the original occupant/ tenant i.e. Shri Samuel Durai by executing an Affidavit in favour of the complainant Trust relinquished all his rights in its favour, then there was no need again to obtain an Affidavit cum Confirmation letter by the complainant in 2015 from Shri Samuel Durai in respect of the said property. Besides, the complainant could not clarify as to what was the necessity again for the complainant Trust to purchase the said property on 23/01/2019 from the respondent no. 2 for a consideration of Rs. 9,00,000/- (Rs. Nine Lacs). The order dtd. 24/05/2023 passed by IGR simply describes that the respondent no. 2 contended that the change of name done in the name of the Trust was carried out by submitting fraudulent papers. No justification either stated or made out in the said order for reversion and restoration of the original name of consumer i.e. the respondent no. 2.
- 5.6 Pertinent to note that the complainant got executed various documents in its favour, not only from the original occupant / tenant Shri Samuel Durai but also from the respondent no. 2. The complainant Trust also got executed documents from landlord in its favour. However, not a single document is placed on record by the complainant Trust to justify its claim that prior to 2018 its name was recorded in respect of the electric meter in the said property.
- 5.7 Significantly, the respondent no. 2 has not filed a single document to substantiate his contention. Paragraph no.10 of his reply depict that in 2018 Shri Samuel Durai executed a Gift Deed in his favour in respect of the said property. However, the copy of the said Gift Deed is not filed on record. Shockingly, he has also claimed tenancy rights in the said property. He alleged that the complainant got disconnected the electric supply in the said property with malafide intention. He also claims restoration of the electric supply in the said property.
- 5.8 The respondent no. 2 has filed private criminal complaint against the complainant Trust and others for forgery. The said case is still pending.
- 5.9 Taking into consideration the rival submissions, in the light of the aforesaid discussion and the documents on record, we are of the firm view that the order dtd. 24/05/2023 passed by IGR is liable to be set aside as there is no proper reasoning in the said order as to on what basis it directed to revert and restore the name of the respondent no. 2 in respect of the electric connection in the said property.
- 5.10 We find that there are allegations and counter allegations and multiple documents submitted by the complainant Trust and the respondent no. 1 & 2 to justify their rival contentions in the said property. The title in the said property or tenancy rights cannot



be determined by this Forum. The same has to be adjudicated by parties before the competent Civil Court. Similarly, no conclusive findings can be given by this Forum as to whether the documents submitted by the parties are fabricated / bogus. At the most, prima-facie it is to be seen as to how the position status-quo ante can be maintained. The supply of electricity is an acute necessity. One should not be otherwise put to grave hardships, if the electricity consumption bills are being regularly paid.

5.11 Admittedly, in 2018 an electric meter was transferred in the name of the respondent no. 2 from the name of Shri Samuel Durai. Again in 2019, it was transferred in the name of the complainant Trust. In 2023, it was retransferred in the name of the respondent no. 2 and lastly in November 2023, the electric supply was disconnected and meter was removed. The complainant Trust and the respondent no. 2 have leveled allegations that the electric supply in the said property has been unlawfully disrupted. Both of them have claimed to restore the electric supply in the said property. In such circumstances, it will be just and proper if the respondent no. 1 i.e. BEST Undertaking is directed to restore the electric supply in the said property in the name of the original consumer i.e. Shri Samuel Durai. At this juncture we want to clarify that both the parties i.e. the complainant Trust as well as the respondent no. 2 are at liberty to get adjudicate their respective rights, specifically tenancy right in the said property by approaching the competent Court. On 15/01/2024 an Interim Order has been passed by this Forum directing the respondent no. 1 to restore the electric supply by installing electric meter in the said property. In this view of the matter, the said order became absolute/confirmed.

6.0 For the foregoing reasons, we answer point no. 1 in the negative, while point no. 2 in the affirmative. In the net result, the following order as answer to point no. 3.

ORDER

1. The Grievance No. GN-491-2023 dtd. 01/12/2023 is partly allowed.
2. The order dtd. 24/05/2023 passed by AAM IGR CCGN is set aside.
3. The respondent no. 1 is directed to restore the electric supply by installing electric meter in the said property as directed in the interim order dated 15/01/2024 passed by this Forum.
4. The respondent no. 1 is hereby further directed to revert back the electric meter in the name of original consumer, that is, Shri Samuel Durai.

5. Copies of this order be given to all the concerned parties.



(Smt. Manisha K. Daware)
Technical Member



(Smt. Anagha A. Acharekar)
Independent Member



(Shri Mahesh S. Gupta)
Chairman