

BEFORE THE COMPLAINANT 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. 22853561

Representation No. N-E-148-2012 dtd. 07/05/2012

Mr. Gulabchandra R.JaiswarComplainant

V/S

B.E.S.&T. UndertakingRespondent (1)

&

M/s Leading Age Developers Pvt. Ltd.Respondent (2)

Present

Quorum :
1. Shri R U Ingule, Chairman
2. Shri S P Goswami, Member
3. Smt Varsha V Raut, Member

On behalf of the Complainant :
1. Shri. Gulabchandra R.Jaiswar
2. Shri Ramashok R. Jaiswar

On behalf of the Respondent (1) :
1. Shri. M.G. Mhatre, AMMIGR(E)
2. Shri. Dhoble, Dy. Legal Advisor

On behalf of the Respondent (2) :
1. Shri Mukesh Jain, Director
M/s Leading Age Developers Pvt. Ltd.

Date of Hearing : 26/06/2012

Date of Order :

Judgment by Shri. R.U. Ingule, Chairman

Mr. Gulabchandra Rambaran Jiaswar, 42/44, New Compound Patra Chawl, Gr. Floor, Room. No. 15, Love Lane, Mazgaon, Mumbai - 400 010 has come before the Forum for his grievance regarding retransfer of electricity bill in the name of complainant - A/c no. 521-077-002.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell on 02/03/2012 regarding his grievance for retransfer of electricity bill in the name of complainant - A/c no. 521-077-002. The complainant has approached to CGRF in schedule 'A' dtd. Nil (received by CGRF on 03/05/2012) as no remedy is provided by the Distribution Licensee regarding his grievance. The complainant has requested the Forum to retransfer the electricity bill in the name of his father or his name.

**Respondent, BEST Undertaking in its written statement
in brief submitted as under :**

- 2.0 Late Shri Rambaran Nagaee was our registered consumer having Meter No.D-901250 under A/c No.521-077-043 residing at above address. Shri Rambaran Nagaee is tenant of the said premises and paying rent to landlord Shri Jagannath Shivdahan Bajpai who had issued rent receipt till month of June 2010. The landlord surrendered their right to M/s. Shanti Santosh Builders and handed over the property for development to the M/s. Leading Age Dev.Pvt.Ltd. On 13/07/2011 M/s. Leading Age Dev.Pvt.Ltd. has applied for transfer of name of electric meter to M/s. Leading Age Dev.Pvt.Ltd. submitted along with required all the documents at the time of change of name.
- 3.0 Shri Ramashok Rampalat Jaiswar applied for obtaining information under Right to Information Act 2005 dated 18/10/2011 in respect of transfer of name of electricity bill / change of name from Shri Rambaran Nagaee to M/s. Leading Age Developers Pvt.Ltd., from bill A/c No.521-077-043 to A/c No.521-077-002. Meter No.D-901250 and Installation No. 0768478 remained same.
- 4.0 In response to above, we have replied Shri Ramashok Rampalat Jaiswar on 15/11/2011. We have also replied vide letter dated 02/12/2011 to the complaint letter Shri Ashok K. Phophale, Advocate of consumer.
- 5.0 Shri Ramashok Rampalat Jaiswar constituted authority of Shri Gulabchandra Rambaran Jaiswar behalf of our previous registered consumer Late Shri Rambaran Nagaee (expired on 22/09/2011) made complaint under Annexure-C on 02/03/2012 in respect of above said electric bill illegally and without any authority transferred the name/change of name from Shri Rambaran Nagaee to M/s. Leading Age Development Pvt.Ltd. from the month of September 2011 onwards.
- 6.0 In response to above, we have replied under Annexure-C on 28/03/2012 and the same letter was collected personally by Shri Ramashok Jaiswar on 02/04/2012.
- 7.0 Our para wise comments on change of name of meter No.D-901250 of A/c No.521-077-043 was based on the documents submitted and after verification of documents, the change of name was effected.
- 8.0 The meter was in the name of Shri Rambaran Nagaee. However, rent receipt was in the name of Shri Narayan Brijlal. The application for change of name was made by M/s. Leading Age Developers Pvt.Ltd., along with application they have submitted to register tenancy agreement in which it is mentioned that Shri Narayan Brijlal was monthly tenant in respect of Residential Room No.15. He expired in the year 1952

leaving behind his legal representative. On the death of Shri Narayan Brijlal, legal representative have succeeded tenancy right and occupancy of said room and they have entered into Agreement for transfer of tenancy in the name of Shanti and Santosh Builders along with affidavit which is duly registered with Sub-Registrar Office.

- 9.0 The complainant Shri Ramashok Rampalat Jaiswar, constituted authority of Shri Gulabchandra Rambaran Jaiswar, has to locus standi to represent Shri Gulab Chandra R. Jaiswar as he has not produced any authentic documents to show that he is empower to represent the complainant.
- 10.0 On the basis of above registered tenancy document, the meter was transferred in the name of M/s. Leading Age Developers Pvt. Ltd.
- 11.0 Till now Shri Gulabchandra Rambaran Jaiswar has not provided any required documents for retransfer of electricity bill on his name. Therefore, the complainant's request could not be implemented for retransfer of electricity bill.
- 12.0 In view of the above, the complaint of Shri. Gulabchandra Rambaran Jaiswar, may be disposed off.
- 13.0 **Respondent No. 2 M/s Leading Age Developers Pvt. Ltd.** submitted its say in brief as under. It has been a Pvt. Ltd. Co. and exclusive tenant in use, occupation and possession of the premises under consideration. The premises never stood in the name of the complainant. The complainant has been a rank passers occupying a small portion of the premises, without permission and authorization of the landlord. The landlord therefore, contemplating to file a suit against the complainant for his eviction. The complainant and his purported father were temporarily allowed to occupy the said premises with several others. The complainant's purported father clandestinely and surreptitiously got the electricity bill and meter transferred in its name without consent of the landlord. The Respondent No. 2 M/s Leading Age Developers Pvt. Ltd. has been a lawful monthly tenant of the premises by virtue of Registered Tri-partite Agreement dtd. 31/01/2011 between its and landlord M/s Shanti & Santosh Builders and the legal heirs of the deceased tenant Shri Narayan Brijlal. The Respondent BEST Undertaking No. 1 therefore on the strength of such duly registered transfer of tenancy agreement, as transferred the meter in the name of the Respondent No. 2 M/s Leading Age Developers Pvt. Ltd. Hence a prayer to dismiss the complaint.

REASONS :

- 14.0 We have heard Shri Gulabchandra R.Jaiswar & Shri Ramashok R. Jaiswar for the complainant and Shri. M.G. Mhatre, AMM, IGR(C), Shri. Dhoble, Dy. Legal Advisor for the Respondent No. 1 BEST Undertaking and Shri Mukesh Jain, Director, M/s Leading Age Developers Pvt. Ltd. for the Respondent No.2.
- 15.0 At the inception, we may observe that initially the Respondent No.2 the builder viz. M/s Leading Age Developers Pvt. Ltd., was not impleaded as Respondent in the instant complaint by the complainant. However, on perusing the documents we find that the complainant has come with a prayer that Respondent No. 1 BEST Undertaking has

illegally and without giving any prior intimation to the complainant, abruptly transferred the meter of his premises in the name of Respondent No.2 viz. M/s Leading Age Developer Pvt. Ltd. in the month of September, 2011. Therefore, prayed to restore the name of complainant's father in the account of the concern meter installed in his premises.

- 16.0 As this Forum found that the prayer made by the complainant has been causing prejudice to Respondent No.2 M/s Leading Age Developer Pvt. Ltd. Therefore, we find it fit in the interest of justice to *suo moto* impleaded M/s Leading Age Developers Pvt. Ltd. in the array of Respondent along with BEST Undertaking. Accordingly, a notice was served on M/s Leading Age Developers Pvt. Ltd. Thereafter, it appeared before this Forum and submitted its oral and written submission.
- 17.0 To our shock and surprise on one hand the Respondent No. 1 BEST Undertaking in its written statement candidly admits that the father of the complainant, Shri Rambaran Nagaee was its registered consumer since 10/06/1986 having meter no. D-901250 with a/c no. 521-077-043 and also place on file the electricity consumption charges for the month of June 2011 showing the name of the consumer being Shri Rambaran Nagaee, and on the other hand without giving any intimation leave aside obtaining no objection from him proceeds to transfer the said meter and account no. in the name of the Respondent No.2 M/s Leading Age Developers Pvt. Ltd. on entertaining its application dtd. 13/07/2011 w.e.f. September, 2011.
- 18.0 For justifying its action of bringing the name of Respondent No.2 M/s Leading Age Developers Pvt. Ltd. in place of father of the complainant i.e. Shri Rambaran Nagaee in respect of Meter no. D-901250, it has been contended on behalf of the Respondent BEST Undertaking that there is no documentary evidence proving that Shri Narayan Brijlal and the father of the complainant were co-tenants in the premises under consideration. It further contends that on the basis of the registered **tenancy documents** submitted by the Respondent No.2 M/s Leading Age Developers Pvt. Ltd. had proceeded to transfer the meter in the name of Respondent M/s Leading Age Developers Pvt. Ltd.
- 19.0 In our consider view there is absolutely no merit in any contention raised by the Respondent BEST Undertaking. We find the action taken by the Respondent BEST Undertaking of transferring the meter in the name of Respondent No.2 M/s Leading Age Developers Pvt. Ltd. being highly evasive and ill founded one.
- 20.0 We find that much emphasize has been placed by the Respondent BEST Undertaking, as well as by the Respondent No.2 M/s Leading Age Developers Pvt. Ltd. on a contention that the later is holding a **tenancy right** in the premises under consideration by virtue of **Registered Transfer Deed** dtd. 31/01/2011 entered between the alleged co-tenant; Shri Jatin Narayan Brijlal and the landlord M/s Shanti & Santosh Builder and the alleged tenant, the Respondent No.2 M/s Leading Age Developers Pvt. Ltd.
- 21.0 In this context this Forum finds it expedient to advert to section 43 of the Electricity Act, 2003. It would be gainful to reproduce here the relevant portion of the said section and it runs as under.

Section 43 - Duty to supply on request - (1) [Save as otherwise provided in this Act, every distribution] licensee, shall, on an application by the **owner** or **occupier** of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply.

- 22.0 At the juncture this Forum also finds it appropriate to advert to Regulation 10.1 in respect of **change of name** provided under the MERC (Electricity Supply Code and other conditions of supply) Regulation, 2005, which *inter alia* provides that a connection may be transferred in the name of another person upon death of the consumer or, in case of transfer of **ownership** or **occupancy** of the premise, upon application for **change of name** by the **new owner** or **occupier**.
- 23.0 On this backdrop of statutory provision, it would be further significant to advert to the **terms and conditions of supply and schedule of charges** provided by the Respondent BEST Undertaking. Therein for implementing the statutory provision in respect of **change of name**, it has been *inter alia* provided in terms and condition no. 13.1 that a connection may be transferred in the name of another person upon death of the **consumer** or in case of **transfer of ownership** or occupancy of the premises, upon application for **change of name** by the new **owner** or **occupier**. Thereafter it has been provided under said term 13.2.1 that the application for change of name along with charges also be accompanying by a **consent letter of the transferor for transfer of connection in the name of transferee**.
- 24.0 This Forum thus finds that a bare perusal of the aforesaid provisions of law and regulations blatantly manifest that nowhere an expression "**a tenant**" has been employed either by the legislature or by the Respondent BEST Undertaking for considering the cases of supply of electricity, as well as considering the cases of **change of name**.
- 25.0 To our surprise however, as observed above merely on the basis of the alleged Registered Agreement of transfer of tenancy, conferring the tenancy right on the Respondent No.2 M/s Leading Age Developers Pvt. Ltd., without confirming whether the said Respondent No.2 M/s Leading Age Developers Pvt. Ltd. has been in fact **occupying** the premises and without obtaining any consent or NOC letter of the erstwhile consumer, with a great rush and alacrity, Respondent BEST Undertaking proceeded to transfer the meter in the name of Respondent No.2 M/s Leading Age Developers Pvt. Ltd., builder, flouting and trampling all the aforesaid provisions of law and conditions of supply provided by legislature and itself. Needless to observe here that, such action of transferring the meter in the name of the Respondent No.2 M/s Leading Age Developers Pvt. Ltd. cannot be sustainable in law as well in fact.
- 26.0 We may advert to a document placed on file before us by the Respondent BEST Undertaking at Exhibit 'E' at pg. 43. Thereupon at the foot, admittedly in compliance to an order to conduct a site investigation, a remark has been passed by the official of the Respondent BEST Undertaking that the concerned premises has been inspected wherein electricity has been supplied through Meter No. D 901250 to Room No. 15, wherein it was found that Shri Rambaran Nagae Jaiswar's son Shri Gulabchandra R. Jaiswar stays along with a nephew Shri Ramashok Jaiswar.

- 27.0 Thus we find that inspection of the premises under consideration has been conducted on 12/03/2012, and as far as Respondent BEST Undertaking is concern, it is as clear as a day light that during this inspection carried out by its own official, it was found that the complainant was staying and enjoying the electricity supply in the premises under consideration through Meter no. D 901250. At this juncture at the cost of repetition we may observe that it has also been submitted by the Respondent BEST Undertaking that Late Shri Rambaran Nagaee has been its registered consumer from 10/02/1986 having Meter no. D 901250. Besides it Respondent BEST Undertaking has also placed before this Forum the electricity bill in the name of its consumer Shri Rambaran Nagaee for the month of June 2011. However, in a most of deplorable manner proceeded to transfer the meter in the name of Respondent No.2 M/s Leading Age Developers Pvt. Ltd. from the month of September 2011, without verifying whether it occupies the said premises or not, to enjoy electricity supply.
- 28.0 This Forum further observes that on submitting an application for change of name by the complainant who has been the son of the registered consumer Shri Rambaran Jaiswar, a reply has been sent to him on 08/12/2011 by the Respondent BEST Undertaking requesting him to submit the documents showing that he is an *occupier* and *owner* of the premises. At the same time it informs the complainant about the transfer of meter in the name of Respondent No. 2 M/s Leading Age Developer Pvt. Ltd. on the ground of his submitting the required documents i.e. registered agreement paper. We thus find that it is blatantly manifest that an absolutely illegal and unsustainable procedure has been adopted by the Respondent BEST Undertaking in transferring the meter in the name of Respondent No.2 M/s Leading Age Developer Pvt. Ltd. as observed and discussed above.
- 29.0 The Respondent No.2 M/s Leading Age Developer Pvt. Ltd. by submitting its written statement dtd. 25/06/2011 made a frail and fragile attempt to defend the action taken by the Respondent BEST Undertaking in transferring the meter in its name. Wherein it is *inter alia* contended by the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. that the meter under consideration was never in the name of the complainant in the past. The Respondent No.2 M/s Leading Age Developer Pvt. Ltd. further contends that the complainant has been *rank trespasser* occupying a small portion of the room without the permission and authorization of the landlord / owner. Therefore, the landlord now contemplating filing the suit for evicting the complainant for wrongful trespassing in the small portion of the room. Neither the complainant nor his father, was a *tenant* of the room at any point of time, and as such they never had any *tenancy right*.
- 30.0 The Respondent No. 2 further contends that the complainant and his purported father Shri Rambaran Nagaee were temporarily allowed to occupy the room along with several other occupants. The complainant's father, Shri Rambaran Nagaee somehow clandestinely and surreptitiously got the electricity bill and meter transferred in his name. The complainant has been thus unauthorized, illegal and forceful *occupant* of the very small portion of the premises under consideration. The Respondent No.2 M/s Leading Age Developer Pvt. Ltd. now has been lawful monthly tenant of the said room by virtue of the duly registered tri-partite agreement dtd. 31/01/2011 signed between it with landlord Shri Shanti and Santosh Builders and heirs of representative of

deceased Narayan Brijlal. The Respondent No.2 M/s Leading Age Developer Pvt. Ltd. has submitted NOC from the landlord for transferring the meter in his name.

- 31.0 To conclude, we do not find any iota of merit in any contention raised by the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. for a simple reason that the Respondent BEST Undertaking itself has candidly admitted that the late Rambaran Nagae has been its registered consumer since 10/02/1986. As observed above accordingly electricity bill has been served on the complainant in the name of his deceased father till the month of transferring the meter in the name of the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. As observed above the official of the Respondent BEST Undertaking found the complainant being in a possession of the premises under consideration.
- 32.0 The Respondent No.2 M/s Leading Age Developer Pvt. Ltd. itself has candidly admitted that the complainant has been **occupying** the said premises but with some reservation that he has partly occupying the premises that too illegal and as such he is rank trespasser. This Forum finds that no declaration has been placed on file by Respondent No.2 M/s Leading Age Developer Pvt. Ltd., Developer of any authority under the law, declaring the complainant being a trespasser. Therefore such contention raised by the Respondent No. 2 M/s Leading Age Developer Pvt. Ltd. has been absolutely devoid of any merit.
- 33.0 During the hearing of the instant complaint while replying a query raised by this Forum the Director of the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. in respect of occupying the said premises, has submitted that some material has been kept in the said room and watchman has been posted to guard the same. We find ourself unable to ascribe any merit to such oral submission made by the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. as it is not supported by any shred of evidence.
- 34.0 This Forum thus finds that registered document viz. agreement for transfer of tenancy dtd. 31/01/2011 can at the most manifest that the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. has been a **tenant** of the premises owned by M/s Shanti and Santosh, but it certainly does not support the pleading of any party that the Respondent No.2 M/s Leading Age Developer Pvt. Ltd. has been occupying any portion of the premises at any point of time.
- 35.0 In the aforesaid observation and discussion we find the instant complaint being liable to be allowed, accordingly we do so.

ORDER

1. Complaint no. N-E-148-2012 dtd. 07/05/2012 stands allowed.
2. This Forum declares the act of the Respondent BEST Undertaking of transferring the meter no. D 901250 in the name of Respondent No.2 M/s Leading Age Developer Pvt. Ltd. has been illegal and unsustainable in law.
3. This Forum therefore directs the Respondent BEST Undertaking to restore the original position in respect of the consumer's name being Shri Rambaran Nagae in respect of meter no. D 901250 with A/c no. 521-077-043 and continue to serve the bill on the

complainant, as it did before transferring the said meter in the name of Respondent No.2 M/s Leading Age Developer Pvt. Ltd.

4. The Respondent BEST Undertaking further directed to take into consideration the application dtd. 10/12/2011 submitted by the complainant for change of name, in accordance with concern provision of law and regulation.
5. The Respondent BEST Undertaking further directed to report the compliance of this order within a period of fortnight there from.
6. Copies be given to all the parties.

(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman