

		Date	Month	Year
1	Date of Receipt	10	05	2022
2	Date of Registration	10	05	2022
3	Decided on	04	07	2022
4	Duration of proceeding	55 days		
5	Delay, if any.	40 days		

**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. D-456-2022 dtd. 10/05/2022**

Digitech Electronic Systems pvt.ltd.... ..Complainant

V/S

1)B.E.S.&T. Undertaking ... ..Respondent No.1

2)Ashok C. Mehta..... ..RespondentNo.2

3)Vinod Kalyanji Bhagat ... ..Respondent No.3

**Present**

Chairman

Coram : Shri S.A. Quazi, Chairman

Member

1. Smt. Anagha A. Acharekar, Independent Member
2. Shri S.S. Bansode, Technical Member

On behalf of the Complainant : Shri Minesh Shah  
On behalf of the Respondent (1) : Shri S.N. Inchnalkar  
On behalf of the Respondent (2) : Mrs. Radhika Mehta (Malhotra)  
On behalf of the Respondent (3) : Ms. Jigna Bhagat

Date of Hearing : 23/06/2022  
Date of Order : 04/07/2022

## Judgment

- 1.0 The complaint was received in the office of the forum on 10.05.2022. Then the notice was sent to the Respondent No.1 and 2 on 10/05/2022. The Respondents filed their separate replies on 18.5.2022 and 23.05.2022 and Respondent No. 2 filed its reply on 18/05/2022. Thereafter the matter was kept for hearing on 26.05.2022. On that date, in the course of the hearing it appeared that Respondent No. 3 had also taken objection regarding the electric supply to the complainant and, therefore, the forum found it fit to issue notice of this proceeding to Respondent No.3. Therefore, notice of this proceeding was directed to be served on Respondent No.3. After service of the notice, the Respondent No. 3 filed reply on 02.6.2022. Then the matter was scheduled to be heard on 16.06.2022. However, on that the Respondent No. 2 sought adjournment on the medical ground about the suffering of his representative from covid 19 virus and due to it the representative was advised by doctor to observe home quarantine and to take rest for one week. In view of these peculiar circumstances, taking in view that covid cases were reportedly increasing, the forum granted adjournment and rescheduled the hearing of the matter on 23.6.2022. Accordingly, the matter has been heard on 23.6.2022 and now the order is being passed herein. In the aforesaid circumstances the delay of 40 days has occurred in deciding this case.
- 2.0 The complainant has grievance about the Respondent No's 1 decision dt. 29.4.2022, regarding disconnection of electric supply to the complainant's premises, described as shop No. 3, located on ground floor of the building known as "Parekh Building" situated at plot No. 18-A, Mama Parmanand Marg, Opera House, Mumbai-400 004.
- 3.0 The case of the complainant may be stated as under :
- a) The complainant purchased the aforesaid premises on 16.07.2021. It is legally owned premises on ownership basis and a legal registered ownership document is available for the premises.
- b) According to the complainant, on 23.11.2021 he made application bearing registration No. 492469 to the Respondent No. 1/BEST undertaking being electricity Distribution Licensee, and thereby the complainant had requested to provide electric connection/supply to the said premises. Mr. Ashok Mehta/Respondent No. 2 and Mr. Vinod Bhagat/Respondent No. 3 took objection to the said application. Therefore, the Customer Care Ward of the Respondent No. 1 sought opinion of their Legal Department but incomplete set of complainant's document was sent and complete set of documents of the Respondents No. 2 and 3 were sent to the Legal Department. As it already took 45 days for decision of the application, complainant enquired about it. The Customer Care 'D' Ward Department asked him to visit the Legal Department of the Respondent No.1 and on visit to the Legal Department, on 08.2.2022, the complainant was told that his complete documents were not sent to Legal Department. Therefore, on 09.02.2022 the complainant gave complete set of his documents to the Legal Department of the BEST undertaking. On 14.2.2022 the Legal

Department approved the electric connection to the premises of the complainant and sent internal communication to the Customer Care D Ward of the Respondent No.1. On 16.2.2022, the application for electric supply/connection was approved and the Customer Care D Ward of the Respondent No. 1 asked the complainant to pay the SD/registration and connection fees for meter installation and accordingly the complainant made payment. On 16.2.2022, the staff of the Respondent No.1 came to the building to install the meter, the key of the meter room of the building was not given by Respondent No. 2, so the staff of the Respondent No. 1 went back without installing the meter to give supply to the premises of the complainant. As electricity comes under essential service, it was decided that police protection be undertaken then the installation of meter will be done. So on 17.2.2022 the complainant was asked to apply for police protection for installation of meter. On 18.2.2022 the Respondent No. 1 submitted a letter to the local police station and thereupon the police protection was approved. Hence, under police protection the electric meter for giving supply to the premises was installed on 26.4.2022. During the installation, the family of Respondent No. 3 threatened to kill the complainant's people.

- c) According to the complainant, on 29.4.2022 the meter was removed by the officials of the Respondent No.1/BEST Undertaking, without any intimation to the complainant. On the basis of CCTV footage the complainant observed that Respondent No. 2 Shri Ashok Mehta colluding with some people for removal of complainant's meter. This gave a feeling to the complainant that this is an act of theft of the meter. Therefore, the complainant gave complaint to the police on 29.4.2022 and also informed to the Respondent No.1 on 29.4.2022 itself, but the Respondent No. 1 did not respond. However, on 02.5.2022, the police informed to the complainant that in fact the officials of the Respondent No. 1 removed the meter on 29.4.2022. On visit of complainant to the officials of the Customer Care 'D' Ward of the Respondent No. 1, they orally asked to meet the General Manager of the Respondent No.1 as everything was done on his directions. On 05.5.2022, the complainant sent letter to the Respondent No.1 seeking reasons as to why his meter was removed and supply to his premises was disconnected by the Respondent No.1. On 05.5.2022, the complainant went to the office of the General Manager and met to Mr.Dhikle, Superintendent (Supply) of General Manager's office. Mr. Dhikle advised the complainant to meet to the General Manager. When the complainant met the General Manager, who in turn asked to give written application and when it was given, the General Manager simply told that reply would be sent to complainant. Thus, according to the complainant, officials of the Respondent No.1 did not resolve the grievance of the complainant to his satisfaction even when complainant personally met him. On 09.5.2022, the complainant received a reply from the 'D' Ward of the Respondent No.1 stating that the meter has been removed due to objection taken by the land lord.
- d) According to the complainant the meter was installed to provide electric supply on 26.4.2022 after Legal Department's approval. The disconnection thereafter has no justification at all and the act of removal of meter and disconnection of supply is illegal, according to the complainant. In support of this, the complainant in the

complaint and its representative in the course of hearing relied upon the provisions of section 56 of Electricity Act 2003 and Manual of procedure and practices declared by the Customer Care Department of the Respondent No. 1 under Chapter II, Section 4 of Right to Information Act (RTI), 2005 and the Rules and Regulations governing these practices etc. In clause 5.0 of the Manual declared by the Customer Care Department, a list of 10 nos. of Acts, Rules and Regulations and procedures and practices etc. has been mentioned to state that the staff and employees of the Respondent No.1 function as per these provisions contained in these Act, Rules and Regulations and Manual of practices. According to the complainant, the aforesaid act of the Respondent No. 1 to disconnect supply to the premises and removal of meter done on 29.4.2022 is not justified under any of these provisions of the Act, Rules and Regulations of established practices. It is submitted that disconnection can be only on the ground of default committed by consumer in payment of dues of electric charges. There is no provision of law, which justifies disconnection of supply for any other reason. It is submitted that prima facie the complainant has acquired title of the premises under registered sale deed executed on 16.7.2021 by earlier owners in favor of the complainant.

- e) According to the complainant's representative, the document of rent receipt dt.1.10.1985, produced with the complaint at page no. 103 is showing the Respondent No. 3 as tenant of the premises in question and the Respondent No. 2 as its landlord. The document dtd. 31.01.1987 produced with the complaint at page no.104 to 114 is showing that thereby the developer Nahalchand Laloochand Pvt. Ltd. gave proposal to the Respondent No.2 for development/renovation of the building on terms and conditions mentioned in this proposal including that the Respondent No. 2 might convert the repaired premises into ownership basis and the Respondent No.2 accepted the said proposal. At page No.115 to 116, there is another similar proposal dtd. 31.01.1987 given to the Respondent No.2 by the developer Nahalchand Laloochand Pvt. Ltd. in continuation of the earlier one and offering a consideration amount, on behalf of all occupiers who would want to join the above agreement, to get converted the premises in the building on ownership basis and this was accepted by the Respondent No.2. At page No.118 to 124, there is another proposal dtd.31.01.1987 given to the Respondent No.3 by the developer Nahalchand Laloochand Pvt. Ltd. to join the aforesaid scheme and the Respondent No.3 accepted to join it. At page No.125 the complainant has produced copy of possession receipt dtd.14.8.1991, whereby the said developer gave possession of the renovated premises to the Respondent No. 3. According to the representative of the complainant, as per these documents the Respondent No. 3 became owner of the premises. He has also referred to the document at page no.128 to 132, which is issued in the form of communication on the stamp paper of Rs. 50/- from Respondent No. 3 to the Vatsa Finance Ltd. and it is dtd. 4<sup>th</sup> July 1994. Thereby, offer was made by Respondent No. 3 to Vatsa to Finance Ltd. to purchase the property as per the terms and conditions and for the consideration mentioned in this communication and this document shows that it was signed by signatory of Vatsa Finance Ltd. having accepted the said proposal. At page no.133 is copy of possession receipt dtd. 4<sup>th</sup> July 1994 signed by Respondent No. 3 in favour of

Vatsa Finance Ltd. stating that possession has been delivered to Vatsa Finance Ltd. According to the representative of the complainant as per these documents Vatsa Finance Ltd. became owner of the premises. Then Vatsa Finance changed its name to Vatsa Corporation and it sold the premises to 1) Sahil Shah and 2) Akash Shah (the predecessor in title of the complainant) on 30.12.2020. The complainant further submits that 1) Sahil Shah and 2) Akash Shah sold the premises to the complainant on 16.7.2021. Thus the complainant is owner of the premises and is entitled to get the electric connection.

- f) The objections of the Respondent No. 2 and 3 seem to be based on their false case that the Respondent No.2 is owner/land lord and the Respondent No. 3 was tenant and Respondent No. 3 sub-let to Vatsa corporation Ltd. and then without having title, Vatsa Corporation Ltd. sold the property to 1) Sahil Shah and 2) Akash Shah (the predecessor in title of the complainant) and hence the Respondent Nos. 2 & 3 are contending that the predecessor in title of the complainant had no title or ownership of the premises to transfer it to the complainant. According to the complainant, these contentions of the Respondent Nos. 2 and 3 are not at all acceptable under law and in view of the facts of the case. It is submitted by the complainant that the Respondent No. 1 is not entitled to decide the issue about the validity of the ownership of the complainant. It is submitted that even on the contentions of the Respondent Nos. 2 & 3, the occupation of the premises is with the complainant as according to the respondents 2 and 3 the possession of the premises came to the complainant from their sub-tenant. Even if such case of the Respondent Nos. 2 and 3 is assumed, but not admitted, the law says that essential services to an occupier of the premises should not be refused or curtailed. In this regard the representative of the complainant has referred to the document produced at page no. 55 with reply dtd. 18.5.2022 filed the Respondent No.1. This document is about the office note of Customer Care Department to the Legal Department of the Respondent No. 1 seeking legal opinion of the Legal Department in the matter of complainants request for electric connection in the light of the objections of the Respondent No. 2 and 3. This document also contains the legal opinion given by the Legal Department of the Respondent No. 1 stating that *"It is a dispute between land lord Shri Ashok C. Mehta and Digitech Electronic pvt.ltd. The dispute between land lord and tenant is common in the city like Mumbai. As per section 29 of the Maharashtra Rent Control Act 1999 land lord not to cut off or withhold essential supply or service. The Director of Digitech Electronics Systems Pvt. Ltd. has submitted registered agreement for sale deed dtd. 16.7.2021 between Mr. Sahil Tarunkumar Shah & Mr. Akash Tarunkumar Shah and Digitech Electronics Systems Pvt. Ltd. They also submitted BMC Shop and Establishment certificate & GST certificate. In view of the above, the department may process the application of new applicant, please."* Referring to this opinion of the Legal Department of Respondent No.1, the representative of the complainant has submitted that even an encroacher over a property is entitled for electric supply.
- g) According to the complainant, once the connection given to the complainant should not have been disconnected by the Respondent No.1 also for the reasons 1) that no

new documents were produced by the Respondent Nos. 2 & 3 after giving of the connection and whatever documents were given they were considered before giving the connection and 2) that no notice has been given to the complainant to give opportunity of giving explanation or opportunity of hearing. No procedure of natural justice has been followed by the Respondent No. 1 before disconnecting the supply to the premises of the complainant. Respondent No.1's officials have removed the electric meter and disconnected the supply to the premises of the complainant without giving pre-intimation about it to the complainant. Therefore, the complainant has requested to direct the Respondent No.1 to restore the electric supply to the premises of the complainant.

4.0 The Respondent No.1/Distribution Licensee has filed reply on 18.5.2022 and additional reply and documents on 23.5.2022 and further additional documents on 16.6.2022 and opposed the aforesaid grievance of the complainant. The case of the Respondent No.1 as stated in their reply as well as submitted by their representative in the course of hearing, may be stated as under :

- a) According to the Respondent No.1, initially on 22.7.2021 the complainant had submitted application no. 479133 for new connection of electricity to the premises described as shop No. 3, located on ground floor of the building known as "Parekh Building" situated at plot No. 18-A, Mama Parmanand Marg, Opera House, Mumbai-400 004. Copy of registered Sale Deed dtd. 16.7.2021 was also submitted with the application. Vide letter dt 12.8.2021 and 6.10.2021, the Respondent No.2 has informed to the Respondent No. 1 that Respondent No. 2 is owner and landlord and Respondent No. 3 is tenant in respect of the said premises and that the complainant is not tenant and hence he is not entitled to get electric supply in the said premises. The Respondent No.1 has produced copy of its letter addressed to the complainant on 10<sup>th</sup> August 2021 with reference to the requisition/application dt. 22.7.2021, requiring the complainant to produce NOC of land lord of the premises within 15 days of this letter, failing which the application for connection dt. 22.7.2021 will be cancelled without any further intimation. It is submitted by the Respondent No. 1 that as the complainant did not produce the NOC from land lord and failed to comply with the requirement contained in the above letter dtd. 10<sup>th</sup> August 2021, the application dt. 22.7.2021 stood automatically cancelled after 15 days of this letter.
- b) Thereafter again application was made by complainant on 23.11.2021 and hence the earlier application was renumbered by the system as 492469. The Respondent No.1 has produced copy of this application of the complainant showing the aforesaid circumstances. With reference to the requisition No. 492469 dt. 23.11.2021, it is submitted by the Respondent No.1 that vide letter dt. 3.12.2021, the complainant informed to the Respondent No.1 that the Respondent No. 3 Vinod Bhagat was owner of the premises and he sold it to M/s Vatsa Finance Ltd on 4.7.1994 and subsequently M/s Vatsa Finance Ltd. changed its name to Vatsa Corporation on 24.10.1997. In the letter dtd. 3.12.2021, the complainant further informed to the Respondent No.1 that Vatsa Corporation sold the premises to 1) Sahil Shah and 2) Akash Shah (the

predecessor in title of the complainant) on 30.12.2020. In the letter dtd. 3.12.2021, the complainant further informed to the Respondent No.1 that 1) Sahil Shah and 2) Akash Shah sold the premises to the complainant on 16.7.2021.

- c) According to the Respondent No.1, in view of the above circumstances, the case was referred by the Respondent No.1 to the Legal Department for their advice in respect of the application of the complainant for installation of new electric connection. The Legal Department advised that meter could be installed on the premises of the complainant in view of section 29 of the Maharashtra Rent Control Act 1999. Hence meter was sanctioned by the Respondent No.1 on 15.2.2022 for the premises of the complainant and accordingly the complainant was informed to carry out the necessary board wiring to install the meter.
- d) The officials of the Respondent No. 1 visited the premises on 16.2.2022 for installation of meter, but it could not be installed as the keys of the meter cabin were not made available and necessary board wiring to install the meter was not completed. Thereafter on 26.4.2022, meter was installed under the protection of police arranged by the complainant.
- e) Respondent No.2/Ashok Mehta vide his letter dt.29.4.2022 took objection to the installation of the meter as above. According to the Respondent No. 1, it is evident from the chain of the registered documents submitted by the complainant before the Respondent No.1 (the copies of which are produced by Respondent No. 1 with the reply dt 23.5.2022 in this proceeding) the Respondent No.2 is original land lord of the premises. In all cases where electric supply is given, it is necessary to have an undisputed occupancy of the premises. In the application for electric supply (which forms the supply agreement) the applicant agrees to maintain NOC of owner/co-owner for the purposes of electric connection. In view of objection from Respondent No.2, Ashok Mehta, it was evident that the complainant had defaulted on the condition of NOC of owner/co-owner. In view of these circumstances, including the objection of Respondent No.2, the meter installed for the premises of complainant on 26.4.2022, was removed in the evening of 29.4.2022. This is not a case of removal of settled meter connection and as such does not fall under the ambit of section 56 of the Electricity Act 2003.
- f) As it is evident that the complainant is not in settled possession of the premises and there exists a dispute about ownership and the complainant has failed to maintain the terms and conditions of supply, he is found not entitled to continue with the electric supply. The representative of the Respondent No. 1 has referred to the provisions of clause 5.6 of the MERC (Electric Supply Code and SoP of Distribution Licensee including power quality) Regulations 2021 about supply, to urge that it provides that Distribution licensee is entitled to seek documents from applicant of new connection about proof of ownership/occupancy in case of owned or leased premises respectively and all other statutory requirements it is also entitled to take undertaking from the applicant for confirmation that the information provided in the application is true, the applicant has

complied with all requirements under all statutes for the time being in force, the applicant himself/herself shall be held responsible for any issue arising out of any such non-compliance and it indemnify the Distribution Licensee from any loss that may occur on account of such non-compliance. He also referred to proviso to clause 5.8 of the MERC (Electric Supply Code and SoP of Distribution Licensee including power quality) Regulations 2021 to urge that it provides that Distribution Licensee is entitled to follow any basis for release of connection without contravening the provisions of any statute or Rules or Regulations framed there under. Therefore, the representative of the respondent has submitted that undertaking was received from the complainant that if information given by him in the application is found false or incorrect, then he would let the supply to be discontinued without any intimation to him. It is submitted that as the claim of applicant about ownership of premises is found prima facie false the above terms of the undertaking of the complainant have been resorted to and the supply has been disconnected without notice or intimation to the complainant. It is submitted that the respondent's act of disconnection of supply to the premises of the complainant on 29.4.2022 is legal and valid and it cannot be found fault with. Hence it is urged by the Respondent No. 1 to dismiss this complaint.

5.0 The RespondentNo.2/Ashok Mehta has filed reply on 18.5.2022 and additional reply dtd. 23.6.2022 in response to rejoinder of complainant. The Respondent No. 2 has strongly opposed the aforesaid grievance of the complainant. The case of the Respondent No.2 as stated in his reply as well as submitted by his representative in the course of hearing, may be stated as under:

- a) The complainant has suppressed material facts and has come with false claims and documents and hence he has not come with clean hands. Therefore, he is not entitled for any relief from this forum.
- b) The claim of the complainant that he is owner of the premises is false. He is nothing more than a trespasser, who is trying to usurp the premises in question on the basis of forged and fabricated documents. The document of alleged agreement executed by the Respondent No.2 is claimed by the complainant to be a document transferring ownership. But in fact it has been held by lower courts and upheld by the Honourable Supreme court that the said document does not even remotely suggest a transfer of ownership rights in favour of Nahalchand Laloochand Pvt. Ltd. That implies that the ownership rights of the premises in question vest in the Respondent No.2. As far as agreement between Vinod Bhagat and Vatsa Finance Ltd/Vatsa Corporation is concerned, the same is fabricated and forged document, according to the Respondent No.2. According to the Respondent No. 2, cases have been initiated and they are going on before the concerned forums. Nevertheless, even if the agreement is to be taken at face value, why would Vatsa Finance Ltd/Vatsa Corporation, after allegedly purchasing the premises in question in July 1994 or so the agreement claims, admit in the plain filed by it before the Small Cause Court in December 1994 that it is a monthly sub-tenant? Or why would it in its letter to the Asst. Commissioner of Income Tax in Oct. 1996, admit that it has taken the premises on leave and license for a

period of 9 years and 11 months ? In the year 2012, in a proceeding of Income Tax Department the Respondent No. 2 is mentioned as land lord of the premises and the said Vatsa Finance Ltd/Vatsa Corporation did not take objection to it, which also shows that the said Vatsa Finance Ltd/Vatsa Corporation did not acquire ownership rights.

- c) According to the Respondent No. 2 he is the owner and landlord of the building in question. The shop premises in question on the ground floor of this building have been rented out to Respondent No. 3 Mr. Vinod Bhagat in the year 1984 and since then he has been tenant of the Respondent No.2. Mr. Vinod Bhagat had once given the premises to Vatsa Finance Ltd. on leave and license for 9 years and 11 months. On or about 20<sup>th</sup> Nov. 1998, the said shop premises were attached by an order of the Income Tax recovery officer for non-payment of tax amounting to Rs.8,10,80,010/- and by virtue of the said order all concerned parties were prohibited and restrained from transferring or charging the said property until further orders. Similar attachment order was passed in the year 2012 for recovery of tax of Rs. 42.02 crores payable by tenant Mr. Vinod Bhagat. Despite such facts, the said attached shop premises have been subjected to fake paper trail sales by Vatsa Corporation in favour of 1) Sahil Shah and 2) Akash Shah, who in turn sold the premises to the complainant on 16.7.2021.
- d) On the basis of the above fake transactions of sale, the complainant is seeking electric supply connection. Respondent No. 2 came to know about it on 10<sup>th</sup> Aug. 2021. Thereupon, by letters dt. 12<sup>th</sup> Aug. 2021, 6<sup>th</sup> Oct. 2021, 15<sup>th</sup> Nov. 2021, 18<sup>th</sup> Dec. 2021, 17<sup>th</sup> Feb. 2022, the Respondent No. 2 raised objections before the Respondent No. 1 and kept on informing the aforesaid facts to the officials of the Respondent No. 1. As the property is under attachment, without NOC of Income Tax Dept. the transactions of the complainant are illegal and invalid and his seeking electric connection without NOC of Income Tax Department is also illegal and he is not entitled for such relief. Despite the objections having been raised by the Respondent No.2 as above, the Respondent No.1's officials gave electric connection to the complainant on 26.4.2022 without considering the objections and without giving opportunity to produce documents and without hearing the Respondent No.2. The meter was installed by using protection of police. The BEST officials in collusion with the complainants' people did not make any attempt to take key of meter room from this Respondent No. 2 and proceeded to directly unhinge the latch of the meter room-door and illegally install the meter. Not only that, they then even allowed the complainant to install a CCTV camera facing the electric meter room, in what essentially, is private property of this respondent.
- e) On 29.4.2022, the meter was removed by the officials of the Respondent No.1 and the same was done after the illegal installation was informed by the Respondent No. 2 to the higher authorities of the Respondent No.1. Thus, the removal of the meter cannot be found fault with. According to the Respondent No. 2, the complainant is not entitled for restoration of the supply, in the circumstances mentioned in the reply.

Hence it is urged by the representative of the Respondent No. 2 that the instant complaint be dismissed.

- 6.0 The Respondent No.3/Vinod Bhagat has filed reply on 02.6.2022 and has strongly opposed the aforesaid grievance of the complainant. The case of the Respondent No.3 as stated in his reply as well as submitted by his representative in the course of hearing, may be stated as under:
- a) The complainant has suppressed material facts and has come with false claims and documents and hence he has not come with clean hands. Therefore, he is not entitled for any relief from this forum.
  - b) According to the Respondent No.3, on 03.8.1984 he took the premises i.e. shop No. 3 situated on the ground floor, Parekh building, 18, Mama Parmanand Marg, Opera House, Mumbai-400004 admeasuring 1680 sq. ft carpet area, under agreement of tenancy from the owner i.e. Respondent No. 2/Ashok Mehta and Cine Agency (India). The Respondent No. 3 has produced copy of tenancy agreement dt 03.8.1984.
  - c) On 01.12.1992, the Respondent No. 3 gave the said premises to Vatsa Finance Limited, which is now known as Vatsa Corporation Limited, under leave and license agreement, for a period of Nine years and eleven months. Copy of this agreement is also produced by the Respondent No. 3 with the reply. The said Vatsa Corporation Limited had filed R.A.D. suit No. 75 of 1995 for the relief of declaration that Vatsa Corporation is tenant of the said premises, which was given to it on leave and license basis. Copy of plaint in that suit is produced with the reply of Respondent No. 3. The Respondent No. 3 has also produced copy of letter dt. 14.10.1996, issued by the said Vatsa Corporation to the Income Tax Department informing them about aforesaid facts about taking of premises by them on leave and license basis from the Respondent No.3. The Respondent No. 3 has also produced copy of letter dt. 20.11.1998, issued by the Income Tax Department stating that the said premises has been attached for recovery of Income Tax payable by the said Vatsa Corporation Ltd. The Respondent No. 3 has also produced copy of letter dt. 20.7.1999, issued by the said Vatsa Corporation stating that it has not paid rent to the Respondent No.3 from 1<sup>st</sup> January 1995 till the date as the matter was subjudice before the Small Causes Court. The Respondent No. 3 has also produced copy of letter dt. 28.4.2003, issued by the Respondent No. 2/land lord to the Respondent No.3 demanding to pay the arrears of rent. The Respondent No.3 has also produced copy of order dt. 27.3.2012, issued by the Income Tax Department informing due of non-payment of income tax by the father of the Respondent No.3, his rights, title and interest in the said premises have been attached.
  - d) It is submitted by the Respondent No. 3 that the aforesaid documents show that the Respondent No. 3 is tenant of the premises and that the premises is still under the attachment imposed by the Income Tax Department. However, in order to grab the property, the said Vatsa Corporation Ltd. through its director Heena Dinesh Jadhav and

Akash Shah and Sahil Shah had jointly prepared a forged document dt. 04.07.1994 purported to have been executed by the Respondent No. 3 in favour of Vatsa Finance Limited. The Respondent No. 3 has also produced copy of said purported agreement dtd. 04.07.1994. According to the Respondent No. 3 the said document dtd. 04.7.1994 is forged and it is created by Vatsa Corporation Ltd. through its director Heena Dinesh Jadhav and Akash Shah and Sahil Shah, to claim ownership rights in the said tenanted premises of the Respondent No.3 and also to enable Vatsa Corporation Ltd. to claim ownership rights in their favour by forging respondents No. 3's signature. It is fraudulently created to purport ownership in the premises under the guise of selling 2,20,000 nos. of shares to Respondent No.3. In fact neither this Respondent purchased any share nor he is aware of such fraudulent transaction. It is also submitted that on the basis of said forged document dtd. 04.07.1994, the said Vatsa Corporation Ltd. had purported to sell the premises to Akash Shah and Sahil Shah by the deed of sale dtd. 30.12.2020 and subsequently on that basis the said Akash Shah and Sahil Shah purportedly sold the premises by registered agreement of sale dt. 16.7.2021 to the present complainant Digitech Electronic Systems Pvt. Ltd.

- e) Thus, the complainant has no legal right of ownership or possession and it is not entitled to get new electric connection in the said premises. Hence, pointing out the aforesaid circumstances, the representative of Respondent No. 3 has submitted that on considering the objections of the Respondent No. 2 and 3, the Respondent No. 1/BEST Undertaking has rightly disconnected the electric supply on 29.4.2022, which was illegally given to the complainant just three days before it. Hence, it is urged by the representative of the Respondent No. 3 that the instant complaint may be dismissed.

7.0 We have heard submissions of the parties and noted their submissions as above. In view of the above submissions of the parties and case pleaded by them, the following **points arise for determination**, on which we record our findings as under, for the reasons to follow.

Sr. No.	Points for determination	Findings
1.	Whether decision dt. 29.4.2022 to disconnect the supply given on 26.4.2022 to the premises claimed to be owned by the complainant, is legal and valid ?	In affirmative.
2.	Whether the complainant is entitled for restoration of electric connection in the said premises?	In negative.
3.	What order is required to be passed to dispose of the complaint/grievance application?	The complaint is liable to be dismissed as is being directed in the operative order being passed herein below.

**8.0 We record reasons for aforesaid findings on points No. 1 to 3, as under:**

- a) From the pleadings and documents of the complainant and the respondent it appears that initially on 22.7.2021 the complainant had submitted an application to the Respondent No.1 for new connection of electricity to the premises described as “shop No. 3, located on ground floor of the building known as “Parekh Building” situated at plot No. 18-A, Mama Parmanand Marg, Opera House, Mumbai-400 004.” Copy of registered sale deed dt. 16.7.2021 was also submitted with the application. It also appears that by letter dt 12.8.2021 and 6.10.2021, the Respondent No.2 had informed to the Respondent No. 1 that Respondent No. 2 is owner and landlord and Respondent No. 3 is tenant in respect of the said premises and that the complainant is not tenant and hence the complainant is not entitled to get electric supply in the said premises. The Respondent No.1 has produced copy of its letter 10<sup>th</sup> August 2021, addressed to the complainant with reference to the requisition/application dt. 22.7.2021, requiring the complainant to produce NOC of land lord of the premises within 15 days of this letter, failing which the application for connection dtd. 22.7.2021 will be cancelled without any further intimation. It also appears that as the complainant did not produce the NOC and failed to comply with the requirement contained in the above letter dtd. 10<sup>th</sup> August 2021, the application dtd. 22.7.2021 stood automatically cancelled after 15 days of this letter.
- b) From the pleadings and documents of the complainant and the Respondents, it also appears that again an application was made by complainant on 23.11.2021 for electric connection and hence the earlier application was renumbered as 492469, by the prevailing system of the Respondent No.1. The Respondent No.1 has produced copy of this application of the complainant showing the aforesaid circumstances. With reference to the requisition No. 492469 dtd. 23.11.2021, the Respondent No.1 has produced and referred to the letter dtd. 03.12.2021 placed at page no. 27 with submission dtd. 23.05.2022, by which the complainant took a stand before the Respondent No.1 that the Respondent No. 3 Vinod Bhagat was owner of the premises and he sold it to M/s Vatsa Finance Ltd on 4.7.1994 and subsequently M/s Vatsa Finance Ltd. changed its name to Vatsa Corporation on 24.10.1997. In the said letter dt. 3.12.2021, the complainant took further stand that before the Respondent No.1 that Vatsa Corporation sold the premises to 1) Sahil Shah and 2) Akash Shah (the predecessor in title of the complainant) on 30.12.2020. In the letter dtd. 03.12.2021, the complainant took further stand before the Respondent No.1 that 1) Sahil Shah and 2) Akash Shah sold the premises to the complainant on 16.7.2021.
- c) It also appears that, in view of the above circumstances, the customer care department of the Respondent No.1 referred the case to their Legal Department for their advice in respect of the application of the complainant for installation of new electric connection. The Respondent No.1 has produced copy of internal correspondence between its said departments. It shows that the Legal Department advised that meter could be installed on the premises of the complainant in view of

section 29 of the Maharashtra Rent Control Act 1999. On the basis such opinion of the Legal Department the meter was sanctioned by Customer Care Department of the Respondent No.1 on 15.2.2022 for the premises of the complainant and accordingly the complainant was informed to carry out the necessary board wiring to install the meter. According to the Respondent No.1, its officials visited the premises on 16.2.2022 for installation of meter, but it could not be installed as the keys of the meter cabin were not made available and necessary board wiring to install the meter was not completed. It is not disputed by the parties that on 26.4.2022, meter was installed under the protection of police. According to the Respondent No.1 police protection was arranged by the complainant, whereas complainant says that as there was obstruction from Respondent No. 2 and 3, the police protection was obtained with the approval of the Respondent No.1. But it appears that in presence of the police the meter was installed on 26.4.2022 at the said premises.

- d) The representative of the complainant submitted that in the course of the consideration of its application No. 492469 dtd. 23.11.2021, Respondent No.2/Ashok Mehta has not recorded any objection. However this submission is based on correct facts in view of the documents produced by the respondents before this forum with their replies, which show vide his letter dtd.29.4.2022 to the Respondent No.1 and to the police etc., the Respondent No.2 took objection to the installation of the meter as above.
- e) It also appears that the Respondent No.1, after installation of the meter as above received objections of the Respondent No. 2 and 3 and on considering the chain of the registered documents submitted by the complainant before the Respondent No.1 (the copies of which are produced by Respondent No.1 with the reply dtd. 23.5.2022 in this proceeding), the Respondent No. 1 formed an opinion that the Respondent No.2 is original land lord of the premises. Respondent No. 1 also formed an opinion that in all cases where electric supply is given, it is necessary to have an undisputed occupancy of the premises. The Respondent No. 1 also considered that it is evident from the documents of the application for electric supply (which forms the supply agreement) the applicant agreed to maintain NOC of owner/co-owner for the purposes of electric connection. In view of objection from Respondent No.2, Ashok Mehta, the Respondent No. 1 found that it was evident that the complainant had defaulted on the condition of NOC of owner/co-owner. In view of these circumstances including the objection of Respondent No.2 and 3, the meter installed for the premises of complainant on 26.4.2022, was removed in the evening of 29.4.2022.
- f) We have herein earlier noted that the case of the complainant is that Respondent No. 2 was owner of the building and Respondent No.3 was his tenant about the premises in question since prior to the year 1985 and in 1987 Respondent No. 2 entered into an agreement of renovation with a developer company whereby Respondent No. 2 and the developer and occupiers in the building, including Respondent No. 3 agreed that after renovation, the Respondent No.2 would convert the occupation of occupiers, including the Respondent No.3, as occupation of owners of their respectively occupied

tenements. The case of the complainant is thus that he is legally entitled to occupy the premises as owner of it. This claim of the complainant is on the basis of the documents namely: (i) the document of rent receipt dtd.01.10.1985, produced with the complaint at page no.103 which is showing the Respondent No. 3 as tenant of the premises in question and the respondent 2 as its landlord. (ii) The document 31.01.1987 produced with the complaint at page no. 104 to 114 is showing that thereby the developer Nahalchand Laloochand Pvt. Ltd. gave proposal to the Respondent No. 2 for development/renovation of the building on terms and conditions mentioned in this proposal including that the Respondent No. 2 might convert the repaired premises into ownership basis and the Respondent No.2 accepted the said proposal. (iii) The document in the nature of similar proposal dtd. 31.01.1987, produced at page no. 115 and 116 with the complainant, given to the Respondent No.2 by the developer Nahalchand Laloochand Pvt. Ltd. in continuation of the earlier one and offering a consideration amount, on behalf of all occupiers who would want to join the above agreement, to get converted the premises in the building on ownership basis and this was accepted by the Respondent No.2. (iv) The document in the form of proposal dtd.31.01.1987, produced with the complaint at page No.118 to 124, given to the Respondent No.3 by the developer Nahalchand Laloochand Pvt. Ltd. to join the aforesaid scheme and the Respondent No.3 accepted to join it. At page No.125 the complainant has produced copy of possession receipt dt.14.8.1991, whereby the said developer gave possession of the renovated premises to the Respondent No.3. (vi) The document produced with the complainant at page no. 128 to 133, which is issued in the form of communication on the non-judicial stamp paper of Rs. 50/- from Respondent No. 3 addressing to the Vatsa Finance Ltd. and it is dtd. 4<sup>th</sup> July 1994.

- g) The Respondents, particularly No. 2 and 3 have denied that the Respondent No. 2 transferred ownership of the premises at any time to the developer company and this has been held by the Honorable High court of Bombay and then it was upheld by the Honorable Supreme Court in a proceeding to seek registration of a housing society of occupiers of building, under Maharashtra Co-operative Societies Act. The Respondent No. 2 has produced copies of these decisions with his reply at page no.38 to 41.
- h) On examination of submissions of all the parties and the provisions of law under Electricity Act and Regulations framed there under by the Maharashtra Electricity Regulatory Commission (MERC), we find that Distribution Licensee has an inherent right to verify and confirm that a person seeking electric supply to any premises has a legal and valid entitlement to occupy the premises. One of the reasons for such view is that the Distribution Licensee runs the business of distributing electricity on profit and loss basis and therefore it has a right to see it as a priority that in case of default in payment of charges for consumed electricity there should be security for recovery of dues in all respect. Therefore, we are unable to agree with the submissions of the representative of the complainant that any occupier having even no prima facie right or entitlement to occupy the premises or any encroacher of it, is entitled to get or to have continuation of electric supply to such occupiers premises. Therefore, in our view, the Respondent No. 1, being a Distribution Licensee of electricity is entitled to refuse

to give electric supply or to disconnect the supply if it is found that the applicant or the consumer, prima facie, is not legally entitled to occupy the premises.

- i) Keeping in mind the above view, as expressed by us in previous para 8.0 (h) herein above, we have examined the aforesaid submissions of the parties with reference to the legal validity of the alleged occupation of the complainant and we have also gone through the aforesaid documents produced by the complainant, as referred in para 3.0(e) and 8.0(f) herein above. We have also gone through the copies of decision dtd. 3<sup>rd</sup> August 2004 passed by the Honorable Bombay High Court in Writ Petition No.6199 of 2001. This Writ Petition was filed by Parekh building Co-operative Housing Society Ltd. against Mr. Kerkar and others to challenge the order of cancellation of registration of the society passed by the competent authority under the Maharashtra Co-operative Societies Act. The said case was pertaining to the same building in which the premises involved in the instant complaint is situated. It appears that on the basis of the agreements between present Respondent No.2 and the developer about renovation and repairs as referred above in para 8.0(f), the said society was claiming that ownership of land and building was transferred to the society and therefore it was entitled to be registered as a housing society. The Honorable Bombay High court has observed in these words: *"I find no substance in the grievance made on behalf of the petitioners that once registration was accorded to the petitioner society, the same could not have been cancelled by the appellate authority. Indeed, much emphasis was placed on the wordings employed by the appellate authority in observing that the registration was granted on account of misrepresentation. Even if that reasoning was to be ignored, in my opinion, in substance, the appellate authority as well as the revisional authority have found as of fact that there is no document on record to show that the ownership of the land and building has been vested with the proposed society and in absence thereof, no society can be registered in respect of the subject property. To get over this position, learned Counsel for the petitioner strenuously argued that ownership of land is not the requirement either under section 8 or 9 of the Act. In his submission, the petitioners had complied with all other requirements under section 8 of the Act read with rule 4 and Form A. This submission overlooks the requirement under rule 9(5)(b) of the Rules, which postulates that sub-class of Tenant Co-partnership Housing Society is a housing society, which holds both land and building either on lease hold or freehold basis and allotted them to their members. This position is reinforced by the form, which was filled in on behalf of the petitioners at page no.110. Para 4 of the Form requires disclosure of agreement for sale if the land is already acquired or proposed to be acquired. In the present case, agreement, which is on record, does not even remotely suggest that the ownership of the property has been transferred in favour of the petitioners and, if it is so, there is no land held by the petitioner - proposed society, against which the same can be registered as a housing society in sub-class Tenant Co-partnership Housing Society. On that reasoning also, the view taken by the authorities below can be sustained. Hence, not a case for interference in exercise of writ jurisdiction. Dismissed"*
- j) The aforesaid decision dtd. 3<sup>rd</sup> August 2004 passed by the Honorable Bombay High Court in Writ Petition No.6199 of 2001, was upheld by the Honorable Supreme court by its decision dtd. 8<sup>th</sup> December 2010 passed in Civil Appeal No(s) 4882 of 2005, the copy of which is produced by the Respondent No. 2 at page no.38 of his reply filed before this forum.

- k) Thus, it is evident from the above analysis that the documents of agreements dtd. 31.1.1987 between the Respondent No. 2 and the developer and the Respondent No. 3 do not suggest that the ownership of the premises in question was transferred by the owner/respondent in favour of the Respondent No. 3. The Respondent No. 3 has also admitted this position. When it is so, the unregistered document dt. 04.7.1994, allegedly executed by the Respondent No. 3 addressing to Vatsa Finance Ltd subsequently changed name as Vatsa Corporation Ltd. transferring ownership of the property to Vatsa Finance Ltd cannot transfer ownership of the premises to Vatsa Finance Ltd. When this shows that Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) It is also observed that after this document dtd 14.7.1994, the said Vatsa Finance Ltd subsequently changed name as Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) had filed suit bearing RAD suit No. 75 of 1995 against the present Respondent No. 2 and 3 and pleaded that the Respondent No. 2 is land lord of the premises and rented it to the present Respondent No.3 and the said Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) acquired the premises from the present Respondent No.3 on leave and license basis. When allegedly by the document dt. 04.07.1994, the present respondent had transferred ownership to Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) then why subsequently Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) claimed to be licensee of the premises in the aforesaid suit, is not explained by the complainant before this forum. Therefore, it is not prima facie believable that any legal right of ownership of the premises was transferred to Vatsa Finance Ltd (subsequently changed name as Vatsa Corporation Ltd.) and then Vatsa Corporation Ltd. transferred it to 1) Sahil Shah and 2) Akash Shah (the predecessor in title of the complainant) on 30.12.2020 and then the said 1) Sahil Shah and 2) Akash Shah sold the premises to the complainant on 16.7.2021.
- l) The objections raised by the Respondents were also including that the premises is under attachment imposed by the Income Tax Department under two attachment orders passed by the said department. On or about 20<sup>th</sup> Nov. 1998, the said shop premises were attached by an order of the Income Tax recovery officer for non-payment of tax amounting to Rs.8,10,80,010/- and by virtue of the said order all concerned parties were prohibited and restrained from transferring or charging the said property until further orders. Similar attachment order was passed in the year 2012 for recovery of tax of Rs. 42.02 crores payable by tenant Mr. Vinod Bhagat. According to the respondents No.2 and 3 despite such facts, the said attached shop premises have been subjected to fake paper trail sales by Vatsa Corporation in favour of 1) Sahil Shah and 2) Akash Shah, who in turn sold the premises to the complainant on 16.7.2021. We find that these allegations of the Respondents about attachment of the property from Nov. 1998, is substantiated by the documents produced by these Respondents. The complainant's representative has submitted that Hon'ble Bombay High Court in its order dtd. 15.12.2021 in Writ Petition No. 3212 of 2021 (Jayantilal Bhagat v/s Asst. Commissioner of Income Tax Circle 22 (1) & Others) has directed to the Income Tax Department to withdraw the attachment. We have gone through the copy of the said decision produced by the representative of the complainant in the

course of hearing. However, from that decision, we do not find that the attachment has been withdrawn as contended by the representative of the complainant. In that case the Hon'ble High Court has directed to Income Tax Authorities to determine the tax payable by the family of Respondent No. 3 herein. Hence, the attachment of the premises can be said to be still in existence or in force. The Respondent No. 1, 2 & 3's representatives referred to Section 226 of Income Tax Act, 1961 and Section 64 of Civil Procedure Code and urged that attached property cannot be transferred and if transferred, the transfer is void. We find that these provisions lay down such rule. Therefore, also the claim of the complainant over the property appears to be doubtful, and it is but natural for the Respondent No. 1 to observe that this circumstance also creates a risk about recovery of electric charges from the consumer of such premises, if supply is continued any more.

- m) We find merits in the submissions of the Respondents no. 2 & 3 that the Respondent No.1, while taking decision to disconnect the supply to the premises in question on 29.4.2022 also considered that this is not a case of removal of settled meter connection and as such does not fall under the ambit of section 56 of the Electricity Act 2003. As it is evident that the complainant is not in settled possession of the premises and there exists a dispute about ownership and the complainant has failed to maintain the terms and conditions of supply about holding legal entitlement to occupy the premises, he is found not entitled to continue with the electric supply. The representative of the Respondent No. 1 has referred to the provisions of clause 5.6 of the MERC (Electricity Supply Code & SoP of Distribution Licensees and power quality) Regulations 2021) about supply, to urge that it provides that Distribution Licensee is entitled to seek documents from applicant of new connection about proof of ownership/occupancy in case of owned or leased premises respectively and also about all other statutory requirements. Under the said clause 5.6 of MERC (Electricity Supply Code & SoP of Distribution Licensees and power quality) Regulations 2021, the Respondent No. 1 is also entitled to take undertaking from the applicant for confirmation that : (a) the information provided in the application is true (b) the applicant has complied with all requirements under all statutes for the time being in force (c) the applicant himself/herself shall be held responsible for any issue arising out of any such non-compliance and (d) applicant shall indemnify the Distribution Licensee from any loss that may occur on account of such non-compliance. He also referred to proviso to clause 5.8 of the MERC (Electricity Supply Code & SoP of Distribution Licensees and power quality) Regulations 2021) to urge that it provides that Distribution Licensee is entitled to follow any basis for release of connection without contravening the provisions of any statute or Rules or Regulations framed there under. Therefore, the representative of the Respondent has submitted that written undertaking was received from the complainant that if information given by him in the application is found false or incorrect, then he would let the supply to be discontinued without any intimation to him. It is submitted that as the claim of applicant about ownership of premises is found prima facie false the above terms of the undertaking of the complainant have been resorted to and the supply has been disconnected without notice or intimation to the complainant.

- n) We find that the Respondent No. 1 has taken decision to disconnect the supply on considering the objections of the Respondent No. 2 and 3 and considering that prima facie the complainant was found having no legal entitlement to occupy the premises, as discussed herein above and also by taking into consideration the undertaking of the complainant given under Clause 5.6 of MERC (Electricity Supply Code). Moreover, the documents of the complainant and the Respondent Nos. 2 and 3 were already on the record of the Respondent No.1. There was also undertaking of the complainant given to the Respondent No.1 before taking the supply/connection that if facts revealed are found false, incorrect or suppressed, then the Respondent No. 1 would be entitled to disconnect the supply without any prior intimation. Therefore, in the above circumstances we find that the disconnection of supply without serving any prior notice is justifiable and the contentions of the complainant in this regard do not have substance.
- o) Thus, we can see from the documents that the reason for disconnection of supply to the premises of the complainant is that the complainant is not legally entitled to occupy the premises and he has not produced NOC of those who are legally entitled to occupy the premises. The respondent, being a Distribution Licensee has a duty to see that supply of electricity should only be given when there is no risk to the obligation of the consumer to pay the charges of electricity. The said decision of the Respondent No. 1 to disconnect the supply on 29.4.2022 is perfectly correct and it cannot be found fault with. Hence we have recorded affirmative findings on point No.1. In such circumstances we hold that the complainant is not entitled for the relief of reconnection as requested by it. Accordingly, we have recorded negative finding at point (2).
- p) In view of affirmative finding at point (1) and negative finding at point (2), we hold that the present complaint is liable to be dismissed. Accordingly, we have answered point No.3 and hence we pass the following order:

### ORDER

- 1.0 The Grievance No. D-456-2022 dtd. 10/05/2022 stands dismissed.
- 2.0 Copies of this order be given to all the concerned parties.

Sd/-  
(Shri. S.S. Bansode)  
**Technical Member**

Sd/-  
(Smt. Anagha A. Acharekar)  
**Independent Member**

Sd/-  
(Shri S.A. Quazi)  
**Chairman**