

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 N-E-398-2019 dtd. 17/10/2019

Shri Maqsood Ahmed Maqbool A.Complainant

V/S

B.E.S.&T. UndertakingRespondent no

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri K. Pavithran, Member
2. Dr. M.S. Kamath, Member CPO

On behalf of the Respondent no : 1. Shri A.V. Naik, DECC(E)
2. Smt. P.V. Sutar, AAM(E)

On behalf of the Complainant : 1. Shri Maqsood A.M. Ahmed
2. Shri Mohd. Saqib Khan

Date of Hearing : 27/11/2019

Date of Order : 29/11/2019

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Maqsood Ahmed Maqbool A., 11,Ground floor, 97/1, Mamsa Estate, Morland Road, Mumbai - 400 008 has come before the Forum for dispute regarding serving of notice for debiting Rs. 7,82,609/- towards outstanding amount in the name Mohd. Nasir Noor Mohd. pertaining to a/c no. 546-231-063 into a/c of the complainant having no. 546-231-021.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell dated 27/02/2019 received on 27/02/2019 for dispute regarding serving of notice for debiting Rs. 7,82,609/- towards outstanding amount in the name Mohd. Nasir Noor Mohd. pertaining to a/c no. 546-231-063 into a/c of the complainant having no. 546-231-021. The complainant has approached to CGRF in schedule 'A' dtd. 14/09/2019 received by CGRF on 16/10/2019 as complainant was not satisfied by the remedy provided by the IGR Cell.

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

- 1.0 Shri. Maqsood Ahmed Maqbool Ahmed come before the forum regarding his dispute regarding serving of notice for debiting Rs. 7,82,609/- towards outstanding amount in the name Mohd. Nasir Noor Mohd. pertaining to a/c no. 546-231-063 into a/c of the complainant having no. 546-231-021.
- 2.0 Shri. Maqsood Ahmed Maqbool Ahmed is having electric supply through meter number M140756 & L095132 at 11, Ground floor, Plot 971, Mamsa Estate, Morland Road, Mumbai - 400 008 under a/c 546-231-0021.
- 3.0 Electric supply was given to Mohd. Nasir Noor Mohd 11 A ,Ground floor,Plot 971, Mamsa Estate, Morland Road, Mumbai - 400 008 under a/c 546-231-063. This meter was removed for non-payment of electricity amounting to Rs 5,35,430/- on 15/12/2015.
- 4.0 Vide MCA query dated 30/06/2017, it is observed that accumulated out standing amounting to Rs 6,37,080/- as on 05/06/2017 pertaining to A/C 546-231-063 has not recovered. Hence investigation was carried out on 23/12/2017. During investigation it was observed that , the premises 11 & 11 A of Ground floor, Plot 971, Mamsa Estate, Morland Road are one and same and having electric supply through meter number M140756 & L095132 pertaining to a/c 546-231-021.
- 5.0 Notice was served to the complainant on 21/02/2019 informing him about debiting Rs. 7,82,609/- towards outstanding amount in the name Mohd. Nasir Noor Mohd. pertaining to a/c no. 546-231-063 into a/c of the complainant having no. 546-231-021 and requested him to register his grievance if any with documentary evidence or pay outstanding amount.
- 6.0 Vide letter dated 27/02/2019, the complainant has informed to BEST Undertaking that, he has recently purchased the premises one year early and Mohd. Nasir Noor Mohd. neither belongs to his family nor to the family of the seller from which he had purchased the premises and he filed complaint in Annexure "C" to IGRC and then in Schedule "A" to CGRF.

REASONS

- 1.0 We have heard the arguments of Shri Mohd. Saqib Khan, representative of the complainant and for the Respondent BEST Undertaking Shri A.V. Naik, DECC(E), Smt. P.V. Sutar, AAM(E). Perused the documents filed by either parties to the proceeding.

The Respondent BEST Undertaking has filed written statement along with documents marked at Exhibit 'A' to 'D'.

- 2.0 The representative of the complainant has vehemently submitted that the notice dtd. 21/02/2019 issued by the Respondent BEST Undertaking in respect of payment of unpaid bill of Rs. 7,82,609 for a/c no. 546-231-063 is illegal and the complainant is not liable to pay the said amount as the premises in which he has got the electricity the address is shown as Gala no. 11, ground floor, 97/1, Mamsa Estate, Morland Road, Mumbai - 400 008 and the said recovery is in respect of payment of arrears of bill for Gala no. 11/A, ground floor, 97/1, Mamsa Estate, Morland Road, Mumbai - 400 008. He has further submitted that the so called notice of recovery is also barred by section 56(2) of The E.A., 2003.
- 3.0 Against this, the Respondent BEST Undertaking has submitted that for a/c no. 546-231-063 the meter was installed on 12/03/2002 and it was removed on 15/12/2015 for non-payment. He has further submitted that the address of both the account nos. is same and therefore premises being the same, the complainant is liable to pay electricity dues of a/c no. 546-231-063.
- 4.0 We have cautiously gone through the submissions of the complainant as well as the Respondent BEST Undertaking and documents filed by either parties to the proceeding. We have called CIS data pertaining to the a/c no. 546-231-021 and a/c no. 546-021-063 to know when the meters were installed as well as to know the address given while taking the connection. It appears from CIS data for a/c no. 546-231-021 that meter for said account was installed on 17/04/1982 in the name of Shri Afzal Mohd Rafiq and address shown was R-11, ground floor, WP 971, Mamsa Estate, Mumbai - 400 008. The said data reveals that the complainant has got change the name for the said account on 27/06/2018. CIS data of a/c no. 546-231-063 goes to show that meter was installed for said account in the name of Shri Mohd. Nasir Noor Mohd. on 12/03/2002 showing address as R-11-A, floor '0', WP 971, Mamsa Estate, Madanpura, Mumbai - 400 008. The meter of said account was removed on 02/02/2016 for non-payment of electricity dues.
- 5.0 In view of this, it appears that initially the premises was having no. 11 when electric supply for a/c no. 546-231-021 was given. It appears that on 12/03/2002 Shri Mohd. Noor Nasir Mohd applied for electric connection by showing address as 11-A by showing the premises on mezzanine floor as 11-A.
- 6.0 We have gone through the address shown in electric bill for previous occupier Shri Afzal Mohd Rafiq as well as electric bill issued to the complainant and both are having same address. We have gone through the address shown on the electric bill of Shri Mohd. Nasir Noor Mohd. for a/c no. 546-231-063 is shown as 11-A, floor '0', plot 971, Mamsa Estate, Mohd. Shahid Marg. Considering the address shown in the above said electric bill, it reveals that the premises for which electric supply to the premises in possession of the complainant as well as the premises which was occupied by Shri Mohd. Nasir Noor Mohd. is the same. We are saying so because we have come across

number of occasions for which electric supply was given to plot 971, Mamsa Estate, Mohd. Shahid Marg wherein one occupier got electricity connection for the premises and without paying any electricity charges he used to wait for removal of the meter and then another occupier came, applied for fresh electric supply and Distribution Licensee without verifying the earlier dues sanctioned the electric supply. Same thing happened in the instant case as without verifying earlier dues. the Respondent BEST Undertaking has affected change of name of the complainant on 27/06/2018.

7.0 It appears that the consumer in the above said area is bent upon to adopt such practice only with a view to get the benefit of Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulation, 2005, it reveals that the Respondent BEST Undertaking was not vigilant while giving electric supply and blindly used to give electric supply without verifying previous dues of the premises for which electric supply is given. It does not preclude the Respondent BEST Undertaking for recovery of amount if they satisfy that the premises of old and new occupier is same. In the instant case if the complainant is not liable to pay the electricity dues of earlier occupier then there is no need for him to say that amount under demand notice is barred by limitation. This conduct on the part of the complainant to some what extent goes to show that he admits his liability to pay the earlier all dues as per Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005.

8.0 Having regard to the above said reasons and considering address shown in the electricity bill for a/c no. 546-231-021 as well as a/c no. 546-231-063, we have come to the conclusion that the premises for both the accounts being the same and therefore the complainant is liable to pay the electricity dues of earlier occupier. It appears that in metropolitan cities there is acute problem of space for commercial purpose and therefore the landlords used to make partition of the premises and give portion of it on rent to the different tenants for commercial purpose with a view to get rent. It further reveals that the tenant occupying the premises for business purpose used to do the business for some period then keep the electricity bill pending and wait till electric meter to be removed by Distribution Licensee for non-payment of dues. Then again the other tenant used to occupy the same premises and apply for fresh connection or change of name and thereby adopting the practice to escape from payment of liability of electricity dues of earlier occupier.

9.0 Having regard to the above said circumstances now question poses before us that how the complainant is liable to pay amount in respect of arrears of earlier occupier, we think it just and proper to reproduce Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005.

10.5 The liability of new occupier shall be restricted to maximum period of six months of unpaid charges of electricity supplied to such premises except in case of transfer of connection to legal heir.

10.0 In the instant case, it is not the case of the Respondent BEST Undertaking that the complainant is legal heir of Shri Mohd. Nasir Noor Mohd. Thus the complainant's

liability goes as per Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005.

- 11.0 Having regard to the above said observations and discussion and considering the address shown in electricity bill for a/c no. 546-231-021 as well as 546-231-063 it is crystal clear that the premises being the same and it is the complainant who came in possession of the premises in the year 2018 as a tenant or by purchase, he is liable to pay the electricity dues as per Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005.
- 12.0 Thus the action of the Respondent BEST Undertaking claiming whole electricity dues for a/c no. 546-231-063 appears to be not proper. Thus the complaint deserves to be partly allowed. Hence we pass the following order.

ORDER

- 1.0 The grievance no. N-E-398-2019 dtd. 17/10/2019 stands partly allowed.
- 2.0 The Respondent BEST Undertaking is directed to issue revise bill as per Regulation 10.5 of MERC (Electric Supply Code and Other Conditions of Supply) Regulations, 2005 in respect of electricity dues of a/c no. 546-231-063 to the complainant.
- 3.0 The complainant is directed to pay the amount under revised bill within 15 days of the receipt of the demand notice.
- 4.0 The compliance to be reported within one month from the date of receipt of the order.
- 5.0 Copies of this order be given to the concerned parties.

sd/-
(Shri K. Pavithran)
Member

sd/-
(Dr. M.S. Kamath)
Member

sd/-
(Shri V.G. Indrale)
Chairman