

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. 22853561

Representation No. N -E-215-2014 dtd. 06/01/2014

Mr. Mohd Farooque ShahadatComplainant

V/S

B.E.S.&T. UndertakingRespondent No.

Present

Quorum : Chairman
Mr. R U Ingule, Chairman

Member
1. Mr. M P Thakkar, Member

On behalf of the Complainant : 1. Mr. Mohd. Farooque Shahadat

On behalf of the Respondent No. 1 : 1. Mr. M.R. Dharaskar, DECC(E)

On behalf of the Respondent No. 2 : 1. Mr. Mohd. Iliyas Shahadat Choudhari

Date of Hearing : 20/02/2014

Date of Order : 14/03/2014

Judgment by Shri. R.U. Ingule, Chairman

Mohd Farooque Shahadat, Room No 201, 2nd Floor, A Wing, Rajput Villa CHS Ltd.,43-45 Souter Street, Mumbai 400 008 has come before the Forum for dispute regarding transfer of electric meter in name of Mr. Mohd. Ilyas Chaudhari pertaining to A/c 542-297-003*2.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 09/10/2013 for grievance regarding transfer of electric meter in name of Mr. Mohd. Ilyas Chaudhari pertaining to A/c 542-297-004*2. The complainant has approached to CGRF in schedule 'A' dtd. 01/01/2014 as the consumer is not satisfied with the remedy provided by the IGR Cell of Distribution Licensee regarding his grievance. The complainant has requested the Forum to transfer consumer no. 542-297-004 to his name.

**Respondent No., BEST Undertaking in its written statement
in brief submitted as under :**

2.0 Mr. Mohd. Farooque Shahadat came before this Forum regarding his grievances of transfer of electric meter, which was in his name to in the name of Mr. Mohd. Ilyas Shahadat Choudhari pertaining to A/c no. 542-297-004*2.

3.0 Electric supply was connected to the premises under reference in the name of Mrs. Gafrunisa S. Hasnulla on 14/09/1991 under a/c no. 542-297-003. This electric supply was transferred in the name of Mr. Mohd. Farooque Shahadat on 16/01/2007. Electric supply to this premises under reference was disconnected by removing the meter no. L981231 on 17/06/2008 for the reason non-payment of electricity arrears amounting to Rs. 16,126.00.

4.0 Electric supply is reconnected to the premises under reference in the name of Mr. Mohd. Ilyas Shahadat Choudhari on 26/02/2009 through meter no. 0089964 vide requisition no. 50942387 dtd. 20/11/2008 after recovery of arrears of the premises.

5.0 Mr. Mohd. Farooque Shahadat had also applied for reconnection of electric supply to the premises under reference vide requisition no. 50943399 dtd. 04/02/2009. This requisition was cancelled for the reason, the premises for which electric supply is applied is having electric supply through meter no. 0089964, which stands in the name of Mohd. Ilyas Shahadat Choudhari.

6.0 Mr. Mohd. Farooque Shahadat had given complaint letter dtd. 01/04/2009 stating that Mohd. Ilyas Shahadat Choudhari had submitted forge documents for getting reconnection of electric supply. Mohd. Ilyas Shahadat Choudhari has failed to submit the original documents of xerox of which were submitted by him along with requisition no. 50942387 dtd. 12/11/2008 at the time of compliances of reconnection of electric supply when asked by the Undertaking. He further stated that the original Gift Deed is in the custody of court. Hence electric supply was transferred in the name of Mr. Mohd. Farooque Shahadat on 16/07/2009.

7.0 Electric supply is re-transferred in the name of Mr. Mohd. Ilyas Shahadat Choudhari on 30/06/2012 when he had submitted original registered Gift Deed, Ration Card, copy of Passport for verification.

8.0 Mr. Mohd. Farooque Shahadat vide his complaint letter dtd. 29/11/2012 objected the transfer of electric supply in the name of Mr. Mohd. Ilyas Shahadat Choudhari stating that he

had not given the said NOC for transfer of electric supply in his name along with the other documents submitted by him. Hence, electric supply is again transferred in the name of Mr. Mohd. Farooque Shahadat on 14/12/2012.

9.0 The said electric supply is re-transferred in the name of Mr. Mohd. Iliyas Shahadat Choudhari on 06/05/2013 vide his application for change of name supported with documents like Court order and other documents and new a/c no. 542-297-006 is allotted.

10.0 Both the brothers are staying in the same premises and having occupancy proof of the said premises. However, Mr. Mohd. Iliyas Shahadat Choudhari has submitted registered Gift Deed done by his mother in his name. Both the brothers are having legal possession of the said premises. The rent receipt is still stands in the name of their mother late Mrs. Gafrunisa Hasmulla.

REASONS

11.0 We have heard the complainant Mr. Mohd. Farooque Shahadat and for the Respondent No. 1 BEST Undertaking Mr. M.R. Dharaskar, DECC(E) and for Respondent No. 2 Mr. Mohd. Iliyas Shahadat Choudhari.

12.0 Convoluted and extremely intrinsic complexity in the disputed facts involved in the instant complaint, has been a salient and distinctive feature of the instant complaint. We, however, find it convenient and beneficial to advert to a written submission placed before us by the Respondent No. 1 BEST Undertaking in respect of the various meters installed in the premises alleged to be 'occupied and owned' by the complainant and his younger brother i.e. Respondent No. 2 and the various *change of names* made by the Respondent No. No.1 BEST Undertaking thereto.

13.0 The Respondent No. 1 BEST Undertaking has *inter-alia* thus submitted that initially the electric supply was connected to the premises under consideration in the name of mother i.e. Smt. Gafrunisa Shahadat of the complainant from 14/09/1981. Thereafter on submission of application for change of name by the complainant his name was brought in the electricity bill on 16/01/2007. Thereafter on 17/06/2008 for non-payment of electricity bill, the meter was removed from the said premises. Younger brother, the Respondent No. 2 thereafter applied for the reconnection on 12/11/2008 and in response to that a new meter was installed on 26/02/2009 by recovering the entire arrears from the said Respondent No. 2. Thereafter the complainant also submitted a requisition on 04/02/2009 demanding reconnection of supply in the same premises which was cancelled by the Respondent No. 1 BEST Undertaking on 02/03/2009 on a ground of existence of meter in the same premises in the name of Respondent No. 2 i.e. younger brother. Thereafter, on submission of a complaint dtd. 01/04/2009 by the complainant, the Respondent No. 1 BEST Undertaking directed the Respondent No. 2 i.e. younger brother to produce the original documents including Gift Deed and as he failed to produce the same his name was replaced by the name of the complainant on 16/07/2009. The Respondent No. 2 younger brother thereafter produced original register

Gift Deed before the Respondent No. 1 BEST Undertaking, placed before this Forum at Exhibit 73/C, Ration Card placed before us at Exhibit 145/C and a copy of a Passport placed before us at Exhibit 103/C. Therefore, the Respondent No. 1 BEST Undertaking again brought on record the name of the said younger brother i.e. Respondent No. 2 on 30/06/2012 in place of the complainant.

14.0 Further to add into the aforesaid chain of 'changing the name of consumers', the complainant vide his letter dtd. 29/11/2012 objected to bringing the name in the electricity bill of his younger brother i.e. Respondent No. 2 and filed a complaint in Annexure 'C' before the IGRC of the Respondent No. 1 BEST Undertaking. Therefore, the Respondent No. 1 BEST Undertaking again brought on record the name of the complainant in place of his younger brother Respondent No. 2 on 14/12/2012. Thereafter the Respondent No. 2 younger brother of the complainant vide his application dtd. 22/03/2013 again applied for the change of name to be brought in the electricity bill by submitting the copied of the document such as i) City Civil Court order dtd. 17/03/2012 placed before us at Exhibit 127/C, ii) Ration Card placed at Exhibit 145/C, iii) Passport placed at Exhibit 123/C and iv) Registered Gift Deed made by the mother of the complainant and Respondent No. 2 placed at Exhibit 149/C. Therefore taking into consideration this documentary evidence in respect of the **occupation and ownership** of the premises lying with the Respondent No. 2, the Respondent No. 1 BEST Undertaking again brought on record the name of Respondent No. 2 younger brother Mr. Mohd. Ilyas Shahadat Choudhari. This Forum, thus finds that on the back drop of the aforesaid chain of events, presently on the electricity bill the name of the Respondent No. 2 Mr. Mohd. Ilyas Shahadat Choudhari appears from 06/05/2013 which has been presently objected to by the complainant i.e. elder brother of the Respondent No. 2, which has been under consideration of this Forum for redressal, in the present complaint.

15.0 This Forum finds it significant to advert to a fact that in the past, a complaint between the aforesaid same party bearing no. N-E-79-09 has been already decided by this Forum on 15/07/2009. It is pertinent to observe in this regard that the said complaint was in respect of the same premises and to reiterate it was between the same parties. In this complaint also the present complaint had raised a dispute that his younger brother Respondent No. 2 Mr. Mohd. Ilyas Shahadat Choudhari had obtained a meter by submitting the bogus documents by alleging that a dispute regarding the "occupancy and ownership", was pending before the City Civil Court Mumbai. In this complaint the present complainant had prayed this Forum to direct the Respondent No. 1 BEST Undertaking to provide him a new meter by removing the meter allotted to his younger brother i.e. present Respondent No. 2 as the later submitted the bogus documents.

16.0 This Forum further finds it significant to observe that during the course of hearing in the said complaint the present complainant had submitted before this forum that in the contingency, if a separate meter is provided to him and to his brother, it would be highly appreciated by him. He also submitted that the earlier meter installed in the said premises was of three phase and now the complainant needs a meter of a single phase. The complainant in this complaint has also stated that the Respondent No. 2 younger brother was

not allowing him to take electric supply from the main switch for the rooms at the relevant time occupied by him. This Forum, by passing the reasoned order had dismissed the said complaint filed by the present complainant. This Forum is surprised to notice that neither in the present complaint nor in the course of arguments, the complainant has even remotely referred to filing of the aforesaid complaint before this Forum and the judgment passed therein which went against him. We thus find that the present complaint has not come with a clean hands before this Forum.

17.0 On perusing the plethora of documents placed on file by either party to the present dispute and the vociferous arguments advanced by them, we find that as envisaged under section 43(1) of the Electricity Act, 2003, it is the “*owner or occupier*” of the premises, who is entitled to apply for getting a supply of electricity from the distribution licensee.

18.0 As submitted by the Respondent No. 1 BEST Undertaking to bring on record the name of the consumer for mentioning the same in the electricity bill, a cogent documentary evidence has been submitted by the Respondent No. 2 the younger brother Mr. Mohd. Ilyas Shahadat Choudhari viz. the Deed Gift signed by the deceased mother of the present complainant and his younger brother Respondent No. 2 Mr. Mohd. Ilyas Shahadat Choudhari placed on file before us by the Respondent No. 2 as well as that by the Respondent No. 1 BEST Undertaking at Exhibit 149/C.

19.0 This Forum observes that this Deed of Gift has been registered with the authority of the State Government with the payment of necessary stamp and registration fee and bearing the seal of the concerned authority thereupon. Therefore, in consider view of this Forum, the Respondent No. 1 BEST Undertaking, has rightly relied on this document for considering the “ownership” of the premises under consideration lying with the Respondent No. 2 younger brother and not with the complainant. Besides it, admittedly, the Respondent No. 2 younger brother Mr. Mohd. Ilyas Shahadat Choudhari has also been “occupying” the premises under consideration. This Forum therefore finds it blatantly manifest and evident that the “ownership and occupancy”, of the premises under consideration has been with the Respondent No. 2 and no blame can be ascribed to the Respondent No. 1 BEST Undertaking for bringing the name of the Respondent No. 2 in the electricity bill.

20.0 Before we part with this order, we may observe that much hue and cry has been made by the complainant by vociferously contending that the “Gift Deed” submitted by his younger brother i.e. Respondent No. 2, has been bogus and rest of the documents are also bogus and manipulated one. However, in consider view of this Forum, the registration of the “Gift Deed” that too with the concerned authority of the State Government, is sufficient for the Respondent No. 1 BEST Undertaking to rely on as a cogent proof of “ownership and occupancy”, of the premises under consideration. Now in regard to the matter pending before the City Civil Court, this Forum observes that the same was confined to not disturbing the possession of the premises under consideration and not about the ownership of the same. Besides it, the copy of the order passed by the Hon’ble City Civil Court Mumbai, Suit 1431/2007 order dtd. 17/03/2012, placed on file before us at Exhibit 131/C manifests that

the said suit was disposed off for 'want of prosecution' on the part of the present complainant. To conclude on this aspect, no assistance is available to the complainant from this civil suit.

21.0 This Forum may observe that there is a bit delay in passing the instant order. In this context, we observe that this Forum was required to implead the younger brother Respondent No. 2 as a necessary party in the array of Respondent, in the interest of justice, as granting a relief prayed by the complainant would have caused a prejudice to him. Therefore, the younger brother of the complainant was required to be directed to appear in the instant matter and defend his case, which has consumed a considerable time. Hence the said delay.

22.0 In the aforesaid observation and discussion, we find the instant complaint being devoid of any merit and accordingly we proceed to pass the following order.

ORDER

1. The complaint no. N-E-215-2014 stands dismissed.
2. Copies be given to both the parties.

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman