

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. S -A-217-2014 dtd. 15/01/2014

Shri Suryakant N. KoliComplainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Quorum : Chairman
Shri R U Ingule, Chairman

Member
1. Shri M P Thakkar, Member
2. Shri S M Mohite, Member

On behalf of the Complainant : 1. Shri U.Y. Vajandar, DECCA
2. Shri R.U. Kasar, Supdt. 'A' ward
3. Shri V.R. Sawant, AAM(A) ward

On behalf of the Respondent : 1. Shri Suryakant N. Koli

Date of Hearing : 21/02/2014

Date of Order : 27/03/2014

Judgment by Shri. R.U. Ingule, Chairman

Shri Suryakant N. Koli, 4, ground floor, Musafirkhana Bldg., Carnac Road, Mumbai 400 001 has come before the Forum for dispute regarding outstanding of A/c no. 328-067-002 which is being debited to his account.

Complainant has submitted in brief as under :

1.0 The complainant has approached to IGR Cell on 04/09/2013 for grievance regarding outstanding of A/c no. 328-067-002 which is being debited to his account. The complainant has approached to CGRF in schedule 'A' dtd. 13/01/2014 as the consumer is not satisfied with the remedy provided by the IGR Cell of Distribution Licensee regarding its grievance. The complainant has requested the Forum for not debiting the outstanding amount to his account.

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

- 2.0 Shri Manjunath N.Gowda was given electric connection on 06.12.2000 vide consumer No. 328-067-002 for residential purpose for his premises at Grd. Flr., Musafirkhana Bldg. Carnac Road, Musafirkhana, Mumbai 400 001. However, his meter was removed on 21.07.2003 for non-payment of electricity bills. In order to recover the O/s amount of Rs. 55,250/- investigation was carried out on 19.08.2013 and it is observed that Shri Suryakant N. Koli is using the supply for the outstanding premises through Meter No. D 050009, Cons. No. 328-067-006. Hence a letter for recovery of outstanding amount was sent to Shri S.N. Koli on 26.08.2013 and he was requested to pay the o/s amount of Rs. 55,250/- within 15 days from the receipt of the letter, failing which the O/s amount will be debited to his A/c No. 328-067-006.
- 3.0 As the o/s premises is owned & occupied by the complainant and using supply from his adjacent premises the o/s amount of Rs. 55,250/- should be recovered from him.
- 4.0 We pray to the Hon'ble Forum to dismiss the grievances made by the applicant and ask the applicant to pay the outstanding amount of Rs. 55,250/-.

REASONS

- 5.0 We have heard the complainant in person and for the Respondent BEST Undertaking Shri U.Y. Vajandar, DECCA. Perused documents placed on file.
- 6.0 The instant matter has been found by this Forum to be an open and shut case. It has been *inter-alia* alleged by the Respondent BEST Undertaking that the electric connection provided to the *erstwhile occupier* Shri Manjunath Gowda was disconnected and meter was removed on 21/07/2003 for non-payment of electricity bills. During the investigation carried out by the Respondent BEST Undertaking on 19/08/2013, to recover outstanding amount of Rs. 55,250.00 it came to its notice that the supply for the said premises has been availed through meter no.D050009 having a/c no. 328-067-006 of the complainant Shri Suryakant Koli. Hence, a letter was sent to the complainant Shri Suryakant Koli on 26/08/2013 to pay the said outstanding amount of Rs. 55,250.00 as the premises of *erstwhile occupier* Shir Manjunath Gowda has been now occupied by the complainant.
- 7.0 This Forum finds that the judgment handed down by the Hon'ble Supreme Court in a case of *Haryana State Electricity Board v/s M/s Hanuman Rice Mills (Civil appeal no. 6817/2010 order dtd. 20/08/2010)* gives a complete quietus to the instant

controversy. This Forum finds that the Hon'ble Supreme Court on advertng to the catena of its earlier judgments on the same question of facts and law, while summarising the law position in para 9, has *inter-alia* observed that

- (i) electricity arrears do not constitute a charge over the property. Therefore, transferee of the premises cannot be made liable for the dues of the erstwhile owner / occupier.
- (ii) only in a case of such, arrears can be recovered of the previous owners / occupier from the transferee when a statutory rules and conditions of supply statutory in character authorises the licensee to do so.

8.0 On perusing the contention raised by the Respondent BEST Undertaking, we find that it has proceeded to recover the electricity arrears of Rs. 55,250.00 of the ***erstwhile occupier***, Shri Manjunath Gowda from the present transferee Shri Suryakant Koli, merely because he is occupying the premises previously occupied by Shri Manjunath Gowda. It is therefore explicit that such outstanding of Rs. 55,250.00 does not constitute as a ***charge*** on the premises presently occupied by the complainant Shri Suryakant Koli. Therefore, it is highly unsustainable on the part of the Respondent BEST Undertaking to claim such arrears of Rs. 55,250.00 of the ***erstwhile occupier*** Shri Manjunath Gowda from the complainant, as the same has been unsustainable in law, the complaint should succeed. Accordingly, we proceed to pass the following order.

ORDER

1. The complaint no. S-A-217 2014 stands allowed.
2. The Respondent BEST Undertaking has been directed to refrain from claiming any outstanding amount from the complainant consumer in respect of erstwhile occupier, Shri Manjunath Gowda.
3. Copies be given to both the parties.

(Shri S M Mohite)
Member

(Shri M P Thakkar)
Member

(Shri R U Ingule)
Chairman