

**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-286-2016 dtd. 01/02/2016.**

Shri Ashish P. Doshi .....Complainant

V/S

B.E.S.&T. Undertaking .....Respondent

**Present**

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.Y. Gaikwad, Member
2. Shri S.M. Mohite, Member CPO

On behalf of the Complainant : 1. Shri Ashish Doshi  
2. Shri Pratap Doshi

On behalf of the Respondent (1) : 1. Shri N.V. Bhandari, DECC(A)  
(BEST Undertaking) 2. Shri R.U. Kasar, Supdt., CC(A)  
3. Shri V.R. Sawant, AAM, CC(A)

On behalf of the Respondent (2) : 1. Shri Khozema  
(M/s Swift Telecom India Pvt. Ltd.) 2. Shri Hatim

Date of Hearing : 29/03/2016

Date of Order : 31/03/2016

**Judgment by Shri. Vinayak G. Indrale, Chairman**

The complainant Shri Ashish P. Doshi, B-1, Floor 1, Plot 47, Quest End Bldg., Capt Prakash Pathe Marg, Cuff Parade, Mumbai - 400 005 came before the Forum regarding his dispute about reverting change of name of electric connection from his name to M/s Indian Aluminum Co. Ltd. pertaining to A/c no. 219-231-033\*4.

**Complainant has submitted in brief as under :**

The complainant has approached to IGR Cell on 20/10/2015 for his dispute about reverting change of name of electric connection from his name to M/s Indian Aluminum Co. Ltd. pertaining to A/c no. 219-231-033\*4. The complainant has approached to CGRF in schedule 'A' dtd. 27/01/2016 (received by CGRF on 28/01/2016) as no remedy was provided to the complainant by the IGR Cell of Distribution Licensee regarding his grievance.

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

- 2.0 The complainant Shri Ashish P. Doshi came before the Forum regarding his dispute about reverting change of name of electric connection from his name to M/s Indian Aluminum Co. Ltd. pertaining to A/c no. 219-231-033\*4.
- 3.0 Vide application no. 1831 dtd. 06/01/2009 the complainant has applied transfer of electric connection from M/s Indian Aluminum Co. Ltd. to his name. He has attached copy of the Ration Card and telephone bill as a proof of occupancy. However, he did not submit copy of rent receipt or NOC from Landlord / previous occupant/ previous consume M/s Indian Aluminum Company Ltd.
- 4.0 M/s Swift Telecom India Pvt. Ltd. raised objection vide its letter dtd. 20/04/2015 for transfer of electric connection in the name of Shri Ashish Doshi stating that they are the present landlord of the premises. M/s Swift Telecom India Pvt. Ltd. attached the copy of Survey Register for the Town and Island of Bombay.
- 5.0 The Undertaking had forwarded the letter dtd. 05/05/2015 and requested Shri Ashish Doshi to submit any additional documents proving his ownership such as Rent receipt, Sale deed, Share certificate etc. within 15 days from receipt of the letter, failing to which the name on the electricity bill will be retransferred in the name of old consumer i.e. S/S Indian Aluminum Company Ltd. In response to this letter we received two letters dated 19.05.2015 & 08.06.2015 from Shri. Ashish P. Doshi asking for 15 days & 10 days time limit respectively to file his reply and submit the documents.
- 6.0 Shri Ashok R. Pandey, Advocate High Court has submitted a letter on behalf of Shri. Ashish P. Doshi stating that his client is in lawful & in settled possession of the premises since the year 2005 and the proposed action of BEST to retransfer the meter in the name of previous consumer is bad and illegal. No supporting documents proving Shri Ashish Doshi's legal possession were attached.
- 7.0 As Shri. Ashish P. Doshi failed to submit any document which would show his lawful entry in the said premises in spite of giving sufficient time as per our letters mentioned above, the electric connection to the said premises was retransferred in the name of our old consumer S/S Indian Aluminum Co. Ltd. from the billing month October 2015. The same was informed to Shri. Ashish P. Doshi vide our letter dated 22.09.2015.
- 8.0 Shri Ashish Doshi had submitted a copy of Tenancy agreement, copy of Decree in T.E. /R. Suit No. 52/61 of 2014 in the Court of Small Causes at Bombay vide his letter dtd. 30/11/2015 (after filing Annexure 'C' form). As the matter being sub-judice in the

Hon`ble Small Causes Court, at Mumbai, request of complainant to retransfer electric connection in his name is not accepted.

**Respondent No. (2), M/s Swift Telecom India Pvt. Ltd.in its written statement  
in brief submitted as under :**

- 9.0 M/s Swift Telecom India Pvt. Ltd. stated that they are the present landlord of the premises. The dispute about ownership of the flat under reference is pending in the court of Small Cause Mumbai and Obstructionist Notice no. 725 of 2015 also served in T.E. & R. Suit no. 52/61 of 2004.
- 10.0 The complainant Shri Ashish Doshi made a false declaration while filing the complaint in Schedule 'A' that, 'no proceedings are pending before any Court', hence his complaint is liable to be dismissed.
- 11.0 As per Regulation 6.7 (d) of MERC (CGRF & EO), Regulation 2006, the Forum should not entertain Shri Ashish Doshi's plea as matter is pending in the court of Small Cause Mumbai.
- 12.0 Shri Ashish Doshi has now produced various apparently false and got up documents allegedly executed between him and erstwhile landlord only after the transfer of the subject meter was reversed by BEST.

**REASONS**

- 13.0 We have heard arguments of representative of the complainant and for the Respondent BEST Undertaking no. (1) Shri Shri N.V. Bhandari, DECC(A), Shri R.U. Kasar, Supdt., CC(A), Shri V.R. Sawant, AAM, CC(A). We have heard arguments of representative of the Respondent no. (2) on whose objection name of the complainant is deleted from record pertaining to a/c no. 219-231-033. Perused the documents filed by the complainant along with Annexures as well as written submission filed by the Respondent No.(1) BEST Undertaking and documents annexed with written statement. Perused the say filed by the Respondent No. (2) filed on 27/02/2016.
- 14.0 The representative of the complainant has vehemently submitted that the name of the complainant is recorded in the a/c no. in the year 2009 and the Respondent no. (2) has taken the objection in the month of April 2015 and therefore the Respondent No. (2) M/s Swift Telecom India Pvt. Ltd has no *locus-standi* to take objection and action of Respondent No. (1) BEST Undertaking deleting the name of the complainant is illegal and not proper. Against this, the representative of the Respondent No. (1) BEST Undertaking and Respondent No. (2) M/s Swift Telecom India Pvt. Ltd. both have submitted that the complainant while moving the application for change of name has not submitted the required documents and therefore the name of the complainant is

rightly deleted and account is retransferred in the name of M/s Indian Aluminum Co. Ltd. The Respondent No. (2) M/s Swift Telecom India Pvt. Ltd has submitted that they are the landlords of the premises as they have got executed registered assignment deed from the trust on 09/05/2006 and therefore they have every right to take objection for change of name.

- 15.0 It is further submitted that when they moved application under RTI in the year 2015 they came to know that electric meter has been transferred in favour of Shri Ashish Doshi and therefore cause of action arose for them to take the objection. The representative of the complainant has further submitted that in undertaking given by the complainant while change of name, it has been specifically mentioned that in the event of any objection or dispute raised by M/s Indian Aluminum Co. Ltd., meter is liable to be retransferred in the name of previous consumer. Against this, the Respondent No. (1) BEST Undertaking has submitted that in said undertaking the complainant himself has struck off the name of landlord and other person and inserted the name of M/s Indian Aluminum Co. Ltd. in handwriting. We have cautiously gone through the said undertaking more particularly last para of the undertaking and found some force in the submission made by the Respondent no. (1) BEST Undertaking as it appears that word M/s Indian Aluminum Co. Ltd. is written in ink.
- 16.0 We have perused the documents filed by the complainant as well as the Respondent No. (2) M/s Swift Telecom India Pvt. Ltd and it appears that there was consent decree in between Shri Phiroz & Others and M/s Indian Aluminum Co. Ltd. and in view of consent terms M/s Indian Aluminum Co. Ltd. has undertaken to handover or deliver vacate peaceful possession of the said flat for which the meter has been provided by the end of May 2005. In view of consent terms suit bearing no. TE&R Suit no. 52/61 of 2004 has been decreed. It appears that the said decree has been passed on 16/09/2004, the copy of the consent term is at pg. 87. It also appears that the Respondent No. (2) M/s Swift Telecom India Pvt. Ltd. has filed proceedings for possession of the said premises and in that proceeding the complainant appeared as 'Obstructionist'. The documents in that regard has been placed on record at pg. 83-87.
- 17.0 Having regard to the above said documentary evidence coupled with the provisions of clause 13 of Terms and Conditions of Supply and Regulation 10 of MERC (Supply Code

and Other Conditions of Supply), 2005. We have to see whether the Respondent BEST Undertaking No. (1) has legally effected change of name of the complainant in the record. We think it just and proper to reproduce the clause 10 of change of name and same runs as under.

*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.*

18.0 In Terms and Conditions of Supply clause 13, the said identical provision for change of name has been adopted. If we go through clause 10.1 of change of name, it reveals that connection may 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. The word 'may' has been used in Regulation 10.0 and so it is not mandatory on the part of Licensee to effect the change of name since application is filed. Regulation 10.3 (i) the application under Regulation 10.2 shall be accompanied by (i) consent letter of the transferor for transfer of connection in the name of transferee. Clause 10.3 of the said Regulation contemplates that in the absence of consent letter any one of the following document in respect of the premises (a) proof of ownership of premises (b) in case of partition, the partition deed or (c) registered deed or (d) succession certificate is required to be filed along with application for change of name.

19.0 In view of this provision, we have to see the documents filed by the complainant along with application for change of name are sufficient to effect change of name. The complainant has only filed Ration Card and telephone bill which is filed along with written submission of Respondent No. (1) BEST Undertaking. After going through the Ration Card it depicts that it has been obtained on 30/12/2008 and only the name of the complainant appears on the said Ration Card. Likewise the telephone bill filed in the name of the complainant is for the month of November 2008. Considering these two documents we have to see whether the complainant has duly complied with the Regulation 10.3. Here, we wish to observe that Ration Card and telephone bill of 2008 cannot be a sufficient proof to ask for change of name as it was incumbent upon the complainant to bring consent letter of the transferor for transfer of connection in the name of transferee. It appears that there is one endorsement on application for

transfer which is on pg. 35 annexed with documents filed by Respondent No. (1) BEST Undertaking, we think is just and proper to reproduce the same endorsement *“this change of name case referred by DECC(A) dtd. 06/01/2009 advised case from GM and accept deposit and proceed. Sd/- 06/01/2009”*. We have asked the representative of the Respondent no. (1) BEST Undertaking as to who has made the said endorsement and they are unable to explain about it. It appears that in view of the said endorsement the concerned the then employee of the Respondent no. (1) BEST Undertaking motivated to effect the change of name in favour of the complainant.

20.0 The representative of the complainant has submitted that they have taken the premises on rent and in possession of the premises since 2004. It is pertinent to note that complainant has not produced tenancy agreement before BEST Undertaking and although the complainant has placed on record the said tenancy agreement before this Forum which is at pg. 105. The representative of the complainant is unable to explain as to why they have not filed so called tenancy agreement while change of name or while the notices were issued to the complainant to appear and filed necessary documents. It appears that Mrs. Piroja J.P. Shroff and Mr. Farokh E.D. Mehta the then landlord of the property have no right to execute the said tenancy agreement on 17/03/2005 as already the consent decree was passed in which they have agreed that they would not induct any third party in the suit premises and M/s Indian Aluminum Co. Ltd. has given undertaking to vacate the said premises on or before 31/05/2005 to landlord. This might be the reason as to why the complainant has not deliberately placed on record so called tenancy agreement while effecting change of name as well as before Internal Grievance Redressal Cell of Customer Care Dept.

21.0 Having regard to this conduct of the complainant, it appears that possession of the complaint over said premises since 2008 could not be held as legal. We are saying so because the complainant has suppressed true facts while filing the application for change of name and also not explained as to when he got executed the tenancy agreement in 2005, then why he has not filed the same, and moved application for change of name in the year 2009 only. It appears that the Respondent no (1) BEST Undertaking has given effect to the change of name immediately because of the endorsement on the said application. Thus in our opinion it appears that the Respondent no. (2) M/s Swift Telecom India Pvt. Ltd who has subsequently become the landlord of premises on the basis of assignment deed executed on 04/05/2006 and

came to know change of name when they filed application under RTI in 2015 has every right to take the objection and pray for deleting the change of name. Thus we do not find any imperfection in the action taken by the Customer Care Dept. deleting the name of the complainant.

- 22.0 It appears from the record that proceedings are already pending before the Small Cause Court in respect of recovery of possession of the said premises for which electricity connection has been given. It appears that M/s Indian Aluminum Co. Ltd. which was the then tenant has disobeyed the undertaking and failed to vacate the premises and therefore the Respondent No. (2) M/s Swift Telecom India Pvt. Ltd who subsequently became the landlord is required to file execution proceedings for recovery of possession. In the said proceeding the complainant appeared as "Obstructionist".
- 23.0 For the above said reason and considering the conduct of the complainant, it appears that he is not entitled to relief as he has suppressed the true facts before the authority of the Respondent no. (1) BEST Undertaking and got effected his name in the record. It reveals that the induction of the complainant in the said premises cannot be held legal as he in collusion with the then landlord has entered into the tenancy agreement with a view to give go by to the consent decree. Law does not favour the act done by wrong doers. The equity also does not favour the complainant as he has suppressed the true fact. The representative of the complainant has again and again submitted that in view ratio laid down by Calcutta High Court in case between Abhimanyu Majumdar v/s Superintendent Engineer & Others reported in AIR 2011 Calcutta 64, the Forum is not supposed to enter into the controversy as to whether possession is legal or not. We have gone through the ratio laid down in the same ruling which is on section 43, 176 & 67 of E.A. (36 of 2003). In the said case there was dispute in respect of giving new connection to the premises illegally occupied. Such is not the case, as its facts are different from the facts of the case, therefore ratio is not at all applicable.
- 24.0 It appears that when the Respondent No.(2) M/s Swift Telecom India Pvt. Ltd has taken objection, the Customer Care Dept. of Respondent no. (1) BEST Undertaking issued letters to the complainant to appear and file documents but the complainant did not dare to appear and file the so called tenancy agreement as well as possession

receipt. The best reason known to the complainant as to why he has not held tenancy agreement and possession receipt before Internal Grievance Redressal Cell of Customer Care Dept.

- 25.0 For the above said reasons, we do not find any imperfection in the action taken by the Respondent no. (1) BEST Undertaking deleting the name of the complainant and retaining the name of earlier occupier as there was non-compliance of Regulation 10.3. Likewise the dispute is pending before the Small Cause Court in respect of possession of the said premises, so there appears bar of Regulation 6.7 of MERC (CGRF & EO), Regulation 2006. In result we do not find any substance in the complaint and proceed to pass the following order.

**ORDER**

1. The complaint no. S-A-286-2016 dtd. 01/02/2016 stands dismissed.
2. Copies of this order be given to both the parties.

(Shri S.Y. Gaikwad)  
Member

(Shri S.M. Mohite)  
Member

(Shri V.G. Indrale)  
Chairman