

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-FN-347-2018 dtd. 12/01/2018

Autograph Cars (I) Pvt. Ltd.Complainant

V/S

B.E.S.&T. UndertakingRespondent

Present

Chairman

Quorum : Shri V. G. Indrale, Chairman

Member

1. Shri S.V. Fulpagare, Member
2. Dr M.S. Kamath, Member, CPO

On behalf of the Respondent : 1. Shri D.K. Lambhate, AAM, IGRC(F/N)
2. Shri S.S. Kamble, AAO, CC(F/N)

On behalf of the Complainant : 1. Smt. Sherral Chandan Sumaya

Date of Hearing : 28/02/2018

Date of Order : 07/03/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

The Director, Autograph Cars (I) Pvt. Ltd., 2130, Anand CHS Building No. 42, Gandhi Nagar, Bandra (E), Mumbai - 400 051 has come before the Forum for dispute regarding payment of outstanding amount standing in the name of Mr. Harpalsingh Uppal, a/c no. 776-655-011*9 for taking electric supply at 102, 1st floor, plot 10-B, 'C' wing, Avantika CHS, Shaikh Misree Road, Kalpak Estate, Antop Hill, Mumbai - 400 037.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 19/12/2017 for dispute regarding payment of outstanding amount standing in the name of Mr. Harpalsingh Uppal, a/c no. 776-655-011*9 for taking electric supply at 102, 1st floor, plot 10-B, 'C' wing, Avantika CHS, Shaikh Misree Road, Kalpak Estate, Antop Hill, Mumbai - 400 037. The complainant has approached to CGRF in schedule 'A' dtd. 10/01/2018 received by CGRF on 10/01/2018 as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on its grievance.

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

- 1.0 The complainant, The Director, Autograph Cars (I) Pvt. Ltd. came before the Forum regarding her dispute about payment of outstanding amount standing in the name of Shri Harpalsingh Uppal, a/c no. 776-655-011*9 while taking electric supply at flat no. 102, 1st floor, plot no. 10-B, 'C' wing, Avantika CHS, Shaikh Misree Road, Kalpak Estate, Antop Hill, Mumbai - 400037.
- 2.0 The electric supply was given to the premises under reference in the name of Shri Harpalsingh Uppal. This electric supply was disconnected on 13/02/2015 by removing meter no. A120094 for the reason non-payment of Rs. 1,30,093.
- 3.0 The complainant has applied for reconnection of electric supply vide requisition no. 294310 dtd. 24/03/2017 along with relevant documents. This requisition was sanctioned on 24/04/2017 and the complainant was asked to pay outstanding of earlier occupier of the premises Shri Harpalsingh Uppal pertaining to a/c no. 776-655-011*9. The complainant has took the objection and refused to pay the outstanding vide letter dtd. 08/05/2017. This letter was replied suitably. This requisition was cancelled for non-compliances of terms and conditions of sanctioned letter.
- 4.0 After scrutiny it was observed that the complainant has purchased this premises in auction from Kokan Mercantile Co-op. Bank Ltd., Mazgaon, Mumbai - 400 010. In Sale Condition no. 10 of the Sale Notice it was clearly mentioned that "all dues and outgoings i.e. Municipal Taxes, Maintenance / Society charges / Electricity bills / Water Tax or any other dues including all over dues in respect of the said properties shall be paid by the successful bidder / purchaser." That means the complainant was aware of the liabilities towards this property.
- 5.0 The Electric supply to this premises has been reconnected after part payment of Rs. 2,00,000.00 towards electricity dues under protest on 19/12/2017 as mentioned in sanctioned letter vide revised requisition no. 336640 dtd. 19/12/2017.
- 6.0 The complainant was well aware about outstanding of electricity dues at the time of purchase of the property. Hence the complainant is required to pay the remaining outstanding.

REASONS

- 1.0 We have heard argument of The Director of the complainant and for the Respondent BEST Undertaking Shri D.K. Lambhate, AAM, IGRC(F/N) and Shri S.S. Kamble, AAO, CC(F/N). We have perused the documents filed by either parties to the proceedings.

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

- 2.0 The Director of the complainant has vehemently submitted that the complainant company had purchased the premises in auction sale and therefore it was not liable to pay the arrears of electricity dues of earlier owner. It is further submitted that the Respondent BEST Undertaking was negligent in recovering of arrears of dues from earlier owner and therefore the complainant is not liable to pay the same. Against this the Respondent BEST Undertaking has submitted that as per terms and conditions of auction sale as well as in possession letter the complainant has taken responsibility of payment of electricity dues and other charges and therefore now the complainant cannot say that they are not liable to pay the electricity dues.
- 3.0 The Respondent BEST Undertaking has further submitted that it is not the case of change of name but it is the case of new connection and therefore Regulation 10.5 of MERC (Electricity Supply Code and Other Conditions of Supply), Regulation 2005 cannot be applied in the instant case.
- 4.0 We have cautiously gone through the documents filed by the complainant as well as the Respondent BEST Undertaking in support of their rival contention. Application for supply of energy and connection order which are at pg. 9/C and 17/C goes to show that the complainant has applied for new connection. Likewise the documents filed along with the application for new connection goes to show that the complainant has given Letter of Undertaking to pay the previous electricity dues. If this would be the case then in legal sense once the complainant has admitted the liability to pay the electricity dues then the complainant cannot deny the same. In legal sense, the complainant cannot approbate and reprobate at the same time. The complainant is now estopped from denying the liability of previous electricity dues. This is hit by doctrine of estoppel as provided u/s 115 of Evidence Act.
- 5.0 We have gone through the terms and conditions of Sale Notice which is placed on record. We think it just and proper to reproduce the relevant clause no. 10 of the Sale Notice issued by Konkan Mercantile Co-op Bank Ltd.

Clause 10 - All dues and outgoings i.e. Municipal Taxes, Maintenance / Society Charges, Electricity and water taxes or any other dues including all overdue in respect of the said properties shall be paid by the successful bidder / purchaser.

If this would be the terms and conditions of Sale Notice then it could be gathered that the complainant knowing fully of payment of liability of electricity dues had purchased the property. Likewise in possession receipt, which has been placed on record at pg. no. 35/C The Director of the complainant has admitted the liability of payment of electricity dues and maintenance in own handwriting.

- 6.0 Considering all these documents as well as the correspondence made by the complainant with the Respondent BEST Undertaking, it is crystal clear that the

complainant has admitted the liability of payment of electricity dues and hence the complainant cannot deny the liability only on the ground that the Respondent BEST Undertaking was negligent in recovering electricity dues from earlier occupier / owner. On this point we wish to observe that the electricity is public property. Law, in its majesty be highly protect public property and behoves everyone to respect public property. In view of terms and conditions of Sale Notice, the complainant will step in to the shoe of previous owner, from whom the complainant purchased the premises along with liability of payment of electricity dues.

- 7.0 Having regard to the above said facts of the case and admission given by the complainant, we have arrived at the conclusion that the complainant is liable to pay the electricity dues of previous occupier, although the complainant has paid the part of dues amounting to Rs. 2,00,000.00 under protest. The record goes to show that the Respondent BEST Undertaking has given installments for payment of electricity dues and the complainant accepted the same and thereby new connection is given to the complainant.
- 8.0 For the above said reasons we have arrived at the conclusion that the complainant is estopped from denying his liability in view of doctrine of estoppel. The complainant being fully aware that there were electricity dues and having this knowledge purchased the property taking liability of dues and therefore the complainant is liable to pay electricity dues of previous owner. Thus, the complaint stands dismissed. In result we pass the following order.

ORDER

1. The complaint no. N-FN-347-2018 dtd. 12/01/2018 stands dismissed.
2. Copies of this order be given to both the parties.

Sd/-
(Shri S.V. Fulpagare)
Member

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

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