

**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

**Representation No S-D-376-2018 dtd. 13/02/2019**

Shri Chandrasen Bansilal Patel .....Complainant

V/S

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

**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 (1) : 1. Shri. R.D. Waikar, Ag. DECC(D)  
BEST Undertaking

On behalf of the Respondent (2) : 1. Shri Pradeep Khemani

On behalf of the Complainant : 1. Shri C.B. Patel  
2. Smt. Kranti Patel

Date of Hearing : 26/03/2019

Date of Order : 10/04/2019

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

Shri Chandrasen Bansilal Patel, 106, Vimal Society, 1<sup>st</sup> floor, 91, Banganga Road, walkeshwar, Mumbai - 400 006 has come before the Forum for dispute regarding illegal transfer of meter without mandatory document in the name of Shri Pradeep A. Khemani pertaining to a/c no. 462-153-043\*9 having electric supply at flat no. 12, 4<sup>th</sup> floor, Sea View, Dongersey Road, Malabar Hill, Mumbai -06.

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

The complainant has approached to IGR Cell on 03/12/2018 dispute regarding illegal transfer of meter without mandatory document in the name of Shri Pradeep A. Khemani pertaining to a/c no. 462-153-043\*9 having electric supply at flat no. 12, 4<sup>th</sup> floor, Sea View, Dongersey Road, Malabar Hill, Mumbai -06. The complainant has approached to CGRF in schedule 'A' dtd. NIL received by CGRF on 11/02/2019 as the complainant was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee on his grievance.

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

- 1.0 Shri Chandrasen Bansilal Patel come before the Forum regarding his dispute about illegal transfer of electricity bill without mandatory documents in the name of Shri Pradip Atmaram Khemani, having electric supply at flat no. 12, 4<sup>th</sup> floor, Sea View, Dongarsey Road, Malabar Hill, Mumbai - 400 006 pertaining to a/c no. 462-153-043\*9.
- 2.0 Shri Bansilal Patel (Father of the complainant) had purchased the premises under reference vide Agreement of Sale dtd. 27/09/1966, five numbers of share certificates of Rs. 50/- each were issued by the society in the name of the complainant.
- 3.0 Shri Bansilal Patel had permitted Shri Atmaram Khemani to occupy the premises / flat under reference without any written agreement on gratuitous basis somewhere in the year 1970-71. Shri Atmaram Khemani and Shri Rajendra Khemani who were real brothers started paying rent of Rs. 850/- per month from the year 1973.
- 4.0 However, monthly maintenance charges of the premises /flat under reference were paid by the Patel family from time to time. Vide application for change of name by Shri Pradip A. Khemani dtd. 21/04/2008, the electricity bill was transferred in the name of Shri Pradip A. Khemani . The complainant has raised the objection for the same vide notice by Advocate, Ullhas T. Naik dtd. 19/11/2018 and requested to retransfer of electricity bill in previous owner's name.
- 5.0 R.A.E. Suite no. 161 of 1997 was filed in the Court of Small Causes at Mumbai by M/s Khemani & Co. against Smt. Kesardevi Bansilal Patel (Mother of the complainant). Then R.A.E. Suit no. 1263/2085 of 2011 was filed in the court of Small Causes at Mumbai by the complainant. Till today no final order is submitted by the complainant in this respect.
- 6.0 At present Shri Pradip A. Khemani is a physical occupier of the premises. Shri Bansilal Patel, Smt. Kesardevi Bansilal Patel and Shri Atmaram Khemani are passed away.
- 7.0 As per Regulation 6.7 (d) of MERC (CGRF & EO) Regulation, 2006, the Forum has no jurisdiction to entertain this grievance. Hence, the case may be dismissed.

**REASONS**

- 1.0 We have heard argument of the representative of the complainant and for the Respondent BEST Undertaking Shri. R.D. Waikar, Ag. DECC(D) and Shri Pradeep Khemani, tenant of the premises for which electricity connection is given. Perused the documents filed by either parties to the proceeding.

- 2.0 It appears from the documents that the dispute is pending between the complainant and Shri Pradeep Khemani before Small Cause Court at Mumbai and Small Cause Court has granted both the parties to maintain status-quo in respect of possession of the suit premises till final hearing and disposal of the suit.
- 3.0 The representative of the complainant has vehemently submitted that the action of the Respondent BEST Undertaking effecting the change of name in the name of Shri Pradeep Khemani is illegal as it is not supported by any required documents. Against this, the Respondent BEST Undertaking has submitted that on the basis of tenancy rights of Shri Pradeep Khemani they have effected the change of name and had given the supply in the name of Shri Pradeep Khemani.
- 4.0 The Respondent BEST Undertaking has further submitted that the change of name has been effected in the name of Shri Khemani on 19/04/2008 and after 10-11 years, the landlord Shri Chandrakant Patel has filed this complaint requesting to set aside the order of effecting the change of name in the name of Shri Pradeep Khemani and restore earlier position.
- 5.0 At this juncture we wish to observe that certainly as per Regulation 6.6 of MERC (CGRF & EO), Regulation 2006 the Forum shall not admit any grievance unless it is filed within two years from the date on which the cause of action has arisen. The cause of action in this case has certainly arisen in the year 2008 when the electricity connection has been supplied in the name of Shri Pradeep Khemani. The representative of the complainant has submitted that on the basis of false and forged documents, Shri Pradeep Khemani has got effected the change of name in his name and therefore it is liable to be set aside. On this point we wish to observe Clause 2.9 of Terms and Conditions of Supply Code proved by MERC as,

*“The undertaking shall neither be responsible nor liable to ascertain the legality or adequacy of any No Objection Certificates / Way leave permissions / Permission or Consents of Statutory Authorities which might have been submitted by the Applicant / consumer along with his application and shall believe that such certificates / permissions to be sufficient and valid, unless proved to be contrary. In such cases, if documents are found to be fraudulent at later stage, consequences shall be borne by the consumer.”*

Thus in view of Clause 2.9, we did not give much importance to the submission of complainant that no objection filed by Shri Pradeep Khemani that Shri Atmaram Khemani has no objection for effecting change of name, is a forged document as Shri Atmaram Khemani died in 2001.

- 6.0 Having regard to the above said Clause 2.9, it is for the complainant to take appropriate action against Shri Pradeep Khemani before Criminal Court. It reveals that already suit bearing no. RIA.D. Suit no 161 of 1997 is pending before the Small Cause Court Mumbai. The said proceeding is regarding tenancy rights of M/s Khemani and Co. over the suit premises. It appears that on 19/09/1998, the Small Cause Court passed an order directing the parties to maintain the status-quo in respect of possession of the premises for which electricity has been supplied. If viewed from this

angle, it reveals that the Forum cannot take cognizance of the complaint as it is barred by limitation as per Regulation 6.6 of MERC (CGRF & EO), Regulation, 2006. After going through the Regulation 6.6, it appears that word "Forum" has been used in the Regulation and therefore even if the complaint is filed after two years, the IGR can entertain it.

- 7.0 The representative of the complainant has relied upon the judgment in Appeal Petition no. P/271/2012 Shri D. Manmohan Nair v/s Asst. Executive Engineer, KSE Board, Kottarakkara and one more judgment of Hon'ble Calcutta Court in W.P.C.R.C. 340 (W)/2013 Shri Adhir Ranjan v/s Aatnu Kumar Mandal & Anr. We have carefully gone through the facts of this case law and facts are distinct from the facts of the case before us and therefore ratio is not at all applicable.
- 8.0 Having regard to the above said reasons we do not find any substance in the grievance raised by the complainant who is landlord of the said premises occupied by Shri Pradeep Khemani. As per Regulation 6.6 of MERC (CGRF & EO) Regulation, 2006, the Forum cannot take cognizance of this complaint which has been filed after ten years of effecting the change of name in the name of Shri Pradeep Khemani. Likewise as per Regulation 6.7 (d) the Forum shall not entertain the grievance as dispute is pending between complainant and Shri Pradeep Khemani before Small Cause Court Mumbai. Thus the complaint deserves to be dismissed. In result we pass the following order.

#### **ORDER**

- 1.0 The complaint no. S-D-376-2018 dtd. 13/02/2019 stands dismissed.
- 2.0 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