

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-FS-351-2018 dtd. 28/03/2018

Mr. Farooque S. KhanComplainant

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) : 1. Shri Suresh Shinde, AAM, CC(FS)
2. Shri Pradeep Kamat, AAO CC(FS)

On behalf of the Respondent (2) : 1. Shri Gulam Mhod. Daulat Khan

On behalf of the Complainant : 1. Shri Shri Farooque Sallar Khan
2. Shri Hakim Khan

Date of Hearing : 17/05/2018

Date of Order : 18/05/2018

Judgment by Shri. Vinayak G. Indrale, Chairman

Shri Farooque Sallar Khan, Ground floor, Rupji Kanji Chawl, Haji Bunder Road, Gaddi Adda, Sewree, Mumbai - 400 015 has come before the Forum for dispute regarding retransfer of electricity bill in the name of Mr. Gulam Mohd. Daulat Khan pertaining to A/c no. 740-714-044.

Complainant has submitted in brief as under :

The complainant has approached to IGR Cell on 23/02/2018 for dispute regarding retransfer of electricity bill in the name of Mr. Gulam Mohd. Daulat Khan pertaining to A/c no. 740-714-044. The complainant has approached to CGRF in schedule 'A' dtd. NIL received by CGRF on 23/03/2018 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 Farooque Sallar Khan came before the Forum regarding his dispute about re-transferring electricity bill in the name of Shri Gulam Mohd. Daulat Khan pertaining to a/c no. 740-714-044.
- 2.0 Prior to November 2007 electric supply to the premises under reference was standing in the name of Shri Sagar Faizer Khan having a/c no. 740-714-011. Shri Gulam Mohd. Daulat Khan had applied for transfer of this electricity bill in his name vide application no. 5911 dtd. 22/11/2007 with requisite documents. Based on these submitted documents, the change of name has been effected and electric bill was transferred in the name of Shri Gulam Mohd. Daulat Khan.
- 3.0 Shri Farooque Sallar Khan has raised objection for transferring electricity bill in the name of Shri Gulam Mohd. Daulat Khan on 22/02/2017 stating that he is a son of Late Sagar Faizer Khan and documents submitted at the time of change of name by Shri Gulam Mohd. Daulat Khan are forged and requested for reversion of change of name.
- 4.0 The letters dtd. 11/04/2017 and 27/04/2017 were sent to Shri Gulam Mohd. Daulat Khan requesting him to submit NOC of Sagar Faizer Khan and related documents of the said premises to clarify the matter. Investigation was carried out on 06/04/2017 by Enquiry Inspector, during site visit Shabnam Sier Mohd. Khan, Ishadhan Khan and Rakib Khan were present in this premises and Shri Gulam Mohd. Daulat Khan was not physically present in the said premises.
- 5.0 Since there was no reply from Shri Gulam Mohd. Daulat Khan to our letters and as per site Investigation Report, the electricity bill was re-transferred in the name of Sagar Faizer Khan and new a/c no. 704-714-044 was allotted in the month of June 2017 and Shri Gulam Mohd. Daulat Khan was informed accordingly vide letter dtd. 19/06/2017.
- 6.0 Shri Gulam Mohd. Daulat Khan has raised the objection for re-transferring electricity bill in the name of Sagar Faizer Khan vide letter dtd. 18/10/2017. He had attached necessary documents like copy of Municipal Survey 1990, Receipt no. 164581, Copy of Survey Notice by MMRDA, Copy of Passport, Ration Card, Aadhar Card etc. having address of the premises under reference.
- 7.0 After following due procedure, hearing was scheduled on 29/11/2017. During the hearing Shri Gulam Mohd. Daulat Khan had shown all original documents mentioned in the complaint letter to the IGR Officer. During this hearing Shri Farooque Sallar Khan / his representative were not present. Site inspection was carried out by Enquiry Inspector on 10/11/2017 and it was observed that Shri Gulam Mohd. Daulat Khan and his family was physical occupant of the premises. Based on documentary evidence and

physical occupancy, once again electric connection was transferred in the name of Shri Gulam Mohd. Daulat Khan and new a/c no. 740-714-048 was allotted.

- 8.0 Shri Farooque Sallar Khan has raised the objection to the decision of IGR vide letters dtd. 17/01/2018 and 02/02/2018. Along with these letters he has submitted Survey Report Receipt no. 163176 in the name of Shri Sallar Faiz Khan, Aadhar Card and Election Card of Shri Farooque Khan having address of Uttar Pradesh and Election Card of Shri Sallar Faizer Khan having address of Uttar Pradesh. During site inspection on 12/02/2018 it was observed that families of Shri Gulam Mohd. Daulat Khan and Shri Farooque Sallar Khan were physical occupant of the premises.

Say of Shri Gulam Mohd. Daulat Khan

- 1.0 He is staying in the premises under reference since last 40-45 years. He is having receipt of survey which was done in the year 1990 and 2000, old light bill, cart licensee, passport, aadhar card, ration card and copy of survey done by MMRDA as his premises being affected by Nava-Sheva bridge. He is being given alternate accommodation in building.
- 2.0 Shri Farooque Sallar Khan is his cousin brother, who is staying at native place in U.P. For medical treatment, he came to Mumbai and in greed of alternate accommodation in building, he has raised the objection for change of name.
- 3.0 Shri Sallar Faiz Khan has sold his premises to Shri Ramdular Dhaniram Jaiswal in the year 2000 and left to native place.

REASONS

- 1.0 We have heard the arguments of son of the complainant in person and for the Respondent BEST Undertaking Shri S.S. Shinde, AAM, CC(FS) and Shri Pradeep Kambli, AAO CC(FS) as well as heard argument of Shri Gulam Mohd. Daulat Khan. Perused the documents filed by the complainant as well as objection petitioner in support of the rival contentions and written statement filed by the Respondent BEST Undertaking annexed with documents marked at Exhibit 'A' to 'J'.
- 2.0 The son of the complainant has vehemently submitted that Shri Gulam Mohd. Daulat Khan has fraudulently got transferred his name in the electricity bill on the basis of forged documents. Against this, Shri Gulam Mohd. Daulat Khan has submitted that in the year 2007 he has got transferred his name in the electricity bill on the basis of consent given by original occupier Shri Sagar Faizer Khan. He has further submitted that almost after 10 years Shri Farooque Khan, son of Shri Sallar Khan raised the objection for the change of name and same is barred by limitation as per Regulation 6.6 (CGRF & EO) MERC Regulation, 2006. As per said regulation cause of action has arisen for Shri Farooque Khan to file the complaint for change of name within two years from date of filing the application for change of name by Shri Gulam Mohd. Daulat Khan. The name of Shri Gulam Mohd. Daulat Khan was initially recorded on 22/11/2007 by deleting the name of Shri Sagar Faizer Khan. From the record, it

appears that in the month of June 2017, the Respondent BEST Undertaking has reverted the consumer's a/c no. 704-714-011 in the name of previous consumer Shri Sagar Faizer Khan and allotted new consumer number. Further, Shri Gulam Mohd. Daulat Khan raised the objection on 18/07/2017 and submitted the original documents regarding occupancy of the premises and thereby again his name was recorded in the account. Then, on 17/01/2018 Shri Farooque Khan filed the objection for change of name and IGRC rejected the same and thus Shri Farooque Khan approached the Forum challenging the order passed by IGRC.

3.0 After hearing rival contentions of the parties and perusal of the documents, it appears that the dispute between the parties is in respect of change of name as contemplated under Regulation 10 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005. We think it just and proper to reproduce the Regulation 10 to 10.4.

10. Change of Name

10.1 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 ;

Provided that such change of name shall not entitle the applicant to require shifting of the connection to a new premise.

10.2 The application for change of name shall be accompanied by such charges as are required under the approved schedule of charges of the Distribution Licensee.

10.3 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 ;*
- (ii) in the absence of a consent letter, any one of the following documents in respect of the premises : (a) proof of ownership of premises; (b) in case of partition, the partition deed; (c) registered deed; or (d) succession certificate;*
- (iii) Photocopy of licensee / permission with respect to the purpose for which electricity is being supplied to the premises, if required by statute;*
- (iv) processing fee or receipt thereof.*

10.4 The Distribution Licensee shall communicate the decision on change of name to the consumer within the second billing cycle from the date of application for change of name.

Provided where the Distribution Licensee disallows or refuses to the change of name, it shall do so after affording the consumer concerned a reasonable opportunity of being heard in the matter :

Provided further that the Distribution Licensee shall communicate the reasons of refusal in writing to the consumer.

In the instant case 10.5 does not come into play as there were no arrears of electricity bill in the name of previous owner.

- 4.0 After hearing the arguments of the complainant and objection petitioner, it appears that the premises for which the electricity has been provided is under development by MMRDA and therefore the parties are bent upon to record their names in the electricity bill. It is pertinent to note that in electricity bill there is specific note that the bill is not a proof of occupancy of the premises for which electricity connection has been supplied and inspite of this, the parties dragged the dispute for change of name under the guise if their name could be recorded in the electricity bill then they would get title / right in the developed property on the basis of the previous occupancy.
- 5.0 We have cautiously gone through the documents filed by the complainant Shri Farooque Khan and it appears that he has filed the documents i.e. election card, aadhar card in which the address is of Uttar Pradesh. We have perused the documents filed by Shri Gulam Mohd. Daulat Khan and it appears that he has filed photo pass, copy of receipt of application of electoral registration from the officer of Electoral Registration, ration card, aadhar card, election card in which the name of premises is shown for which the electricity has been given. This documentary evidence supports the case of Shri Gulam Mohd. Daulat Khan that he is in actual possession of the premises. Site inspection report at Exhibit 'H' goes to show that at the time of site inspection Shri Gulam Mohd. Daulat Khan, Shri Farooque Khan and Shri Sheesh Mohd. were present and they were in possession of the premises which consists of ground floor + loft. It appears that on the basis of documentary evidence filed by Shri Gulam Mohd. Daulat Khan, the Respondent BEST Undertaking has recorded his name on the electricity bill of the premises.
- 6.0 Having regard to the above said discussion and after perusal of the documents, it appears that Shri Gulam Mohd. Daulat Khan has filed documents regarding proof of ownership of the premises as well as in the year 2007 he has filed an application for change of name along with consent letter of previous owner and therefore on 22/11/2007 the name of Shri Gulam Mohd. Daulat Khan was recorded on the electricity bill of said premises. It appears that the complainant after 10 years of recording the name of Shri Gulam Mohd. Daulat Khan has taken the objection for change of name that too without any documentary evidence and the Respondent BEST Undertaking ought to have not considered the said objection as per Regulation 6.6 of MERC (CGRF & EO), Regulation 2006. Thus we do not find any substance in the objection taken by the complainant Shri Farooque Khan regarding change of name of Shri Gulam Mohd. Daulat Khan. It appears that the Respondent BEST Undertaking after considering the documentary evidence and occupancy of the premises by Shri Gulam Mohd. Daulat Khan has rightly affected the change of name as per Regulation 10 of MERC (Electricity Supply Code & Other Conditions of Supply), Regulation 2005. Thus the complaint deserves to be dismissed. In the result we pass the following order.

ORDER

1. The complaint no. N-FS-351-2018 dtd. 28/03/2018 stands dismissed.
2. Copies of this order be given to three parties.

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

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

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