

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

Grievance No N-E-403-2020 dtd. 13/01/2020

Smt. Rukmini Ramdas GardiComplainant

V/S

B.E.S.&T. UndertakingRespondent (1)

Shri Pandurang Shrirang Gardi Respondent (2)

Present

Chairman / Member Licensee

Quorum : Shri K. Pavithran

Member

Dr. M.S. Kamath, Member CPO

On behalf of the Respondent (1) : 1. Shri Sonawane, Supdt. CC(E)
2. Smt. P.V. Sutar, AAM CC(E)

On behalf of the Respondent (2) : 1. Smt. Dr. Sarika Bhujbal

On behalf of the Complainant : 1. Shri Dinesh R. Gardi

Date of Hearing : 26/02/2020

Date of Order : 29/02/2020

Judgment

Smt. Rukmini Ramdas Gardi, 301, A-1 wing, Shree Laxmi Residency, N.M. Joshi Marg, Byculla (W), Mumbai - 400 027 has come before the Forum for dispute regarding adding the name of Shri Pandurang Shrirang Gardi in electricity bill of Smt. Rukmini Ramdas Gardi pertaining to a/c no. 528-239-159*3.

Complainant has submitted in brief as under :

Smt. Sarika Gardi - Bhujbal, daughter of Shri Pandurang Shrirang Gardi has lodged complaint dtd. 09/07/2019 on Mantralaya Portal, which was received by IGR Cell on 02/08/2019, alleging transfer of electricity bill pertaining to a/c no. 528-239-159*3 in the name of Smt. Rukmini Ramdas Gardi as illegal and claiming that original tenant and occupant of the said premises is Shri Pandurang Shrirang Gardi. Hence electricity bill is to be transferred in his name. Subsequently, on the basis of documents submitted by Smt. Sarika Gardi - Bhujbal, the name of Shri. Pandurang Shrirang Gardi was added in the bill by Distribution Licensee. Whereas, the other party Smt. Rukmini Ramdas Gardi approached CGRF vide schedule 'A' dtd. 25/12/2019 (received by CGRF on 03/01/2020) for disputing addition of name of Shri Pandurang Shrirang Gardi in the electricity bill, as she was not satisfied by the remedy provided by the IGR Cell of Distribution Licensee.

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

- 1.0 On 06.11.2017, we have received an application for change of name of electricity bill from Smt. Rukmini R.Gardi. Along with application she had enclosed following documents:
- a) Electricity bill for the month of November 2017 of Kshitija Infrastrucutre Pvt. Ltd.
 - b) Letter of allotment in the name of Rukhmini Ramdas Gardi dtd.30.1.2017
 - c) Aadhar Card
 - d) Receipt copy of amount of Rs.4370/-
 - e) Paid receipt of Rs.3745/-
 - f) Personal agreement (registered)
 - g) Letter from Laxmi Bldg. Rahiwasi Mandal
 - h) Resolution from Kshitija Infrastrucutre Pvt.Ltd.
 - i) Receipt of Requisition fees
- 2.0 Based on these documents, the change of name was effected on 23.11.2017 in the name of Rukmini R.Gardi. However, on 2.8.2019 we received an objection letter from Sarika Gardi Bhujbal. In her complaint, she has alleged that transfer of electricity bill is illegal, original tenant and occupant of flat is Mr.Pandurang S.Gardi. Hence, the electricity bill is to be transferred in the said name.
- 3.0 During hearing held on 28/08/2019, it is learnt that their dispute is for a re-developed property i.e. Flat. Hence, the electricity bill of the flat was in the name of the builder i.e. Kshitija Infrastrucutre Pvt.Ltd. However, it was transferred in the name of Smt.Rukmini R.Gardi after receiving application and the required documents from her. During hearing Rukmini R.Gardi showed original and submitted zerox copy of allotment letter in her name in support to her claim. On behalf of Pandurang Gardi, his daughter Sarika Gardi Bhujbal showed original and submitted zerox copy of following document in support to her claim of the property.
- a) A letter of allotment from Kshitija Infrastrucutre Pvt.Ltd. in both the names i.e. Rukhmini Ramdas Gardi and Pandurang S. Gardi.

- b) Letter from Executive Engineer, MHADA dtd.17.10.2016
- c) Letter from MHADA to Kshitija Infrastrucutre Pvt.Ltd.
- d) Letter from MHADA to Pandurang S. Gardi.

4.0 We have verified the allotment letters submitted by both the parties and it was found that the letter of allotment submitted by Smt. Rukmini Gardi's is bearing only her name whereas, the letter of allotment submitted by Shri Pandurang S.Gardi was in joint names i.e. Smt. Rukmini R. Gardi & Shri Pandurang S. Gardi. Also the keys of the flat is given to both of them by the builder. Hence, on this basis we have added the name of Shri Pandurang S. Gardi along with Smt. Rukmini R. Gardi in the electricity bill. A letter vide our ref.no. DECCE/AAME/CND/1428/2019 dtd.19.11.2019 was sent to Mrs. Rukmini R.Gardi informing her the above mentioned facts. Also, as per the letter from Executive Engineer MHADA, Shri Pandurang S. Gardi is a tenant and Smt. Rukmini R.Gardi is an occupant and rent receipt is in the name of Shri Pandurang S. Gardi. Not satisfied with our reply, Smt. Rukmini R.Gardi approached Consumer Grievance Redressal Forum along with her grievances.

REASONS

- 1.0 We have heard the argument of the complainants' representative her son, Shri. Dinesh Ramdas Gardi, representative of the Respondent No. 2, his daughter, Dr. Smt. Sarika Bhujbal and Respondent no. 1 BEST undertaking Shri Sonawane, Supdt. CC(E), Smt. P.V. Sutar, AAM, CC(E) on 26/2/2020. The narrative of the case as per the submission of the complainant's representative is as below.
- 2.0 During the year 2010, the redevelopment of their old premises having address Room No. 54, 616/D, Laxmi building was started and the building was demolished in June 2010, by the builder M/s Kshitija Infrastrcture Private Limited after registration of permanent alternate accommodation agreement dtd: 28/6/2010 and thereafter they have received the allotment letter dtd. 30.01.2017 of new premises having the number 301, 3rd floor, Shreelaxmi Residency from the builder M/s Kshitija Infrastructure Pvt. Limited in the name of his mother Smt. Rukhmini Ramdas Gardi. Thereafter they took possession of the new premises in May 2017 and staying in the new premises with her two sons. Electricity bill in the old premises that is prior to the redevelopment took place having no. 54, 616 N.M. Joshi Marg, was in the name of his father i.e. in the name of complainants husband Shri. Ramdas Shrirang Gardi who died in the year 2008. The electricity bill of the redeveloped property in the new building was initially in the name of M/s Kshitija Infrastructure Private Limited. Having regard to this the complainant has approached BEST Undertaking for getting the name changed to complainants name in the electricity bill that is in the name of Smt. Rukmini Ramdas Gardi and submitted an application on 06/11/2017 to BEST Undertaking and BEST had effected the change of name in the electricity bill in his mother's name i.e. Smt. Rukmini Ramdas Gardi with effect from November 2017.
- 3.0 Complainant's representative further submitted that Respondent No.2 Shri. Pandurang Shrirang Gardi came to know the change effected in the electricity bill and therefore made a complaint against the change of name done by BEST Undertaking. Respondent

No.2 has thereafter illegally obtained the another letter of allotment from the builder incorporating the name of Shri. Pandurang Shrirang Gardi in addition to already with the existing name of Smt. Rukmini Ramdas Gardi for the premises no. 301, 3rd floor, Shreelaxmi Residency. The complainant's representative vehemently disagreed the action of the builder who has issued the revised letter of allotment including two names, Smt. Rukmini Ramdas Gardi and Shri. Pandurang Shrirang Gardi for the same premises again, which is back dated on 30.01.2017 and received by the respondent No. 2 on 03/06/2017. The Complainant's representative has expressed serious concern about the action of the builder to issue a back dated letter of allotment adding the name of Shri Pandurang Gardi. The Complainant's representative further submitted that based on the allotment letter received by the Respondent no.2 in joint name, and after conducting the hearing at IGR office, Respondent No.1, BEST Undertaking illegally added the name of respondent No.2 in the electricity bill which is not correct. He further argued that he had shown the downloaded copy of order issued by the Bombay City Civil Court against the Notice of Motion Petition filed by Respondent No.2 at the time of hearing with BEST officials in the IGR Cell on 28/08/2019. However, BEST Undertaking has not considered the order of the notice of motion issued by the Bombay City Civil Court. Representative of the complainant was not satisfied by the action of BEST Undertaking to add the name of Shri. Pandurang Shrirang Gardi in the electricity bill even though the court has dismissed the Notice of Motion and therefore came before the Forum to get the name of Shri Pandurang Shrirang Gardi to be removed from the electricity bill.

- 4.0 The representative of Respondent no.2 Dr. Smt. Sarika Bhujbal is the daughter of Shri. Pandurang Shrirang Gardi has submitted as below:

Previously electricity bill of old premise having address at Room No. 54,616/D Laxmi Building, N.M. Joshi Marg was in the name of her father Shri. Pandurang Shring Gardi and without her father's permission and without any Legal documents, Shri Ramdas Shrirang Gardi had illegally transferred the electricity bill in his name somewhere in December 2000. After the redevelopment of the premises took place and when she came to know that the letter of allotment of the new premise was issued to Smt. Rukmini Ramdas Gardi on January 2017, she approached Chief officer of MHADA and the builder M/s Kshitija Infrastructre for getting the addition of name of Shri Pandurang Shrirang Gardi as co-occupant for Room No. 54. Accordingly Chief Officer of MHADA has passed the order and issued the allotment letter from M/s Kshitija Infrastructure Pvt. Ltd. incorporating both names of Smt. Rukmini Ramdas Gardi and Shri. Pandurang Shrirang Gardi on 3/6/2017. Thereafter, Shri. Pandurang Shrirang Gardi took objection for the action of BEST Undertaking against the change of name on electricity bill and forwarded a complaint through Mantralaya portal. After that BEST had conducted a hearing at IGR cell and verified all the supporting documents and BEST had added the name in the electricity bill incorporating both the names of Smt. Rukmini Ramdas Gardi and Shri Pandurang Shrirang Gardi. Representative of Respondent No. 2 has further submitted that her father has filed a Suit in Bombay City Civil Court in June 2017 to remove Smt. Rukmini Gardi's name as a co-occupant which is pending for final hearing. She further submitted that MHADA has issued a letter

mentioning to remove Rukmini Gardi's name as a co-occupant and consider Shri Pandurang Gardi as a sole Tenant and Occupant. On the basis of above facts, the representative of Respondent No. 2 submitted to maintain the status-quo till the final order of the court is received.

5.0 The Respondant no.1 BEST Undertaking has submitted that the complainant Smt. Rukhmini Ramdas Gardi applied for the change of name in the electricity bill on 6/11/2017 and submitted the required documents. Based on the submitted documents name in the electricity bill has been changed to Smt. Rukmini Ramdas Gardi on 23rd November 2017 as per the departmental procedure. Afterwards i.e. after effecting the name changed to Smt. Rukmini Ramdas Gardi, BEST had received a complaint basically an objection letter from Dr. Smt. Sarika Bhujbal, who is the daughter of Shri Pandurang S. Gardi, which was submitted in the Mantralaya portal. In regard the above objection raised by the Respondent no. 2, BEST had conducted a hearing in the IGR cell on 28/08/2019 when both the parties have been called and appeared for the hearing and had their respective arguments and submissions. BEST undertaking has further submitted that during the hearing conducted on 28/08/2019 in the IGR cell the Respondent no.2 had submitted the following documents to support their contention and to get the name included in the electricity bill.

1. A letter of allotment from M/s Kshitija Infrastructure Pvt. Ltd. in both the names i.e. Smt. Rukmini Ramdas Gardi and Shri Pandurang S. Gardi.
2. A letter from Ex. Engineer dtd. 17/10/2016.
3. A letter from MHADA to M/s Kshitija Infrastructure Pvt. Ltd.
4. A letter from MHADA to Shri Pandurang S. Gardi.

6.0 The Respondent no.1 BEST Undertaking further submitted that after perusing the documentary proof submitted by the respondent no.2, BEST's internal grievance cell observed that that the documents submitted by the Complainant had only her name in the allotment letter ,whereas the document submitted by the respondent no.2 had both the name of Smt. Rukmini Pandurang Gardi and Shri. Pandurang Shrirang Gardi. During the hearing, the Respondent no.1 BEST came to know from the complainant and respondent No. 2 that the builder has delivered the key of the redeveloped new premises to both the respondents and the complainant. Considering the above facts and circumstances BEST had included the name of Respondent no. 2 i.e. The name of Shri Pandurang Shrirang Gardi also in the electricity bill.

7.0 Having regard to all the documents submitted and deliberations during the hearing, the Forum has come to the following conclusions leading to the decision and to issue the order.

Forum wishes to say admitted facts of the above case. Previously electricity bill was in the name of Shri. P. S. Gardi having the premises 4th floor, R 54, Laxmi building having bill no. 528-197-027*4. The Forum has observed that this electricity bill was dated somewhere in January 1990. Thereafter, name in the electricity bill was changed to Shri. Ramdas Shrirang Gardi in the year 2000. Shri Ramdas Shrirang Gardi died in the year 2008. An agreement was executed between the builder M/s Kshitija

Infrastructure private Limited, Smt. Rukmini Ramdas Gardi, MBRR Board and Laxmi Building Rahivasi Mandal for the redevelopment of the property bearing cadestal survey no. 1944, 1/1944 to 5/1944, N. M. Joshi Marg, Byculla (East), Mumbai 400027 in which building having Laxmi building is situated where complainant's premise's electric supply was in the room no. 54. After completion of the redevelopment of the above mentioned property, the builder M/s Kshitija Infrastructure issued a letter of allotment to Smt. Rukhmini Ramdas Gardi on 31/01/2017 which was received and signed by Smt. Rukmini R. Gardi on 05/02/2017 for the newly constructed premise having No. 301, on 3rd floor in A1 wing, admeasuring 550 sq. ft. carpet area approximately in the newly constructed Shreelaxmi Residency. The Forum has observed that at this stage electricity bill was in the name of M/s Kshitija Infrastructure Pvt. Ltd. The Respondent BEST Undertaking has received an application form for change in name from the complainant Smt. Rukmini Ramdas Gardi for the premise having room no. 301, Shreelaxmi Residency, N.M.Joshi Marg having A/c No. 528-239-123 on 6/11/2017. Along with the application the complainant had submitted the following documents.

1. The electricity bill for the month of November 2017 of M/s Kshitija Infrastructure Pvt. Ltd.
2. A letter of allotment in the name of Smt. Rukmini Ramdas Gardi dtd. 30/01/2017.
3. Aadhar Card
4. Receipt copy of amount of Rs. 4,370.00
5. Paid receipt of Rs. 3,745.00
6. Personal agreement (Registered)
7. A letter from Laxmi Bldg. Rahivasi Mandal.
8. Resolution from M/s Kshitija Infrastructure Pvt. Ltd.
9. Receipt of requisition fees.

8.0 The respondent BEST Undertaking after the due verification of above cited documents and as per the procedure effected the change of name on 23/11/2017 in the name of Smt. Rukmini Ramdas Gardi. The Respondent no.2 came to know that the name in the electricity bill pertaining to the premise having room No. 301, Sreelaxmi Residency has changed in the name of Smt. Rukmini Ramdas Gardi only, Smt. Sarika Gardi-Bhujbal, daughter of the Respondant No.2 submitted a complaint against the action of BEST undertaking, through Grievance Redressal Portal of Govt. of Maharashtra, Industries Energy and Labour Dept. and the said complaint received to BEST Undertaking by post on 18/07/2019. In the said complaint, it has mentioned that "to take urgent action against illegal transfer of meter a/c 528-239-123. Original tenant and occupant of this is Shri Pandurang Shrirang Gardi. So meter must be transferred to above name. But Smt. Rukmini Gardi has illegally transferred meter to her name. Kindly go through documents given below and transfer meter to my name". Thereafter, BEST Undertaking's IGRC had arranged hearing on 28/08/2019 by calling both the effected parties that is complainant and The Respondent No.2.

9.0 In this respect, the Forum has observed that the Respondent no. 2 had submitted the following documents for getting their name to be included in the electricity bill.

- 1) A letter of allotment from M/s Kshitija Infrastructure Pvt. Ltd. in both the names i.e. Smt. Rukmini Ramdas Gardi and Shri Pandurang S. Gardi.
- 2) A letter dtd. 17/10/2016 from Ex. Engineer.
- 3) A letter from MHADA to M/s Kshitija Infrastructure Pvt. Ltd.
- 4) A letter from MHADA to Shri Pandurang S. Gardi.

10.0 After perusing the submitted documents, the Forum has observed that based on the above documents submitted by Respondent No. 2, BEST Undertaking has added the name of Shri Pandurang Srirang Gardi also in the electricity bill of the premise having Room No. 301, Shreelaxmi Residency having A/c No. 528-239-123. Now the question poses before the Forum is whether the action of Respondent No. 1 to include the name of Respondent no. 2 in the electricity bill is as per the Regulation or as per the approved relevant procedure order in the matter to be dealt for effecting change of name in the electricity bill. The Forum therefore think it just and proper to reproduce the following Regulation 10 of MERC (Electric Supply Code and Other Conditions of Supply), Regulations, 2005 and Procedure Order no. 236 of 03/05/2017.

Regulation 10

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.

Procedure Order no. 236 of 03/05/2017

5.1 If the original consumer raises dispute after effecting change of name, Asst. Adm. Manager(IGR) shall summon both the disputant and the new consumer for hearing with all documents. For arriving at the decision on the dispute, Asst. Adm. Manager (IGR) after considering the genuineness of submitted documents, physical occupancy of the premises (settled possession of the applicant) may reverse the change of name or may maintain staus-quo.

11.0 Having regard to the above said Regulation and Procedure Order, the Forum has cautiously gone through Regulation 10.1 of MERC (Electric Supply Code and Other Conditions of Supply), Regulations, 2005 as mentioned above and observed that the Regulation clearly says that, 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. However, no any such application has received from the Respondent No. 2 for effecting the change of name and without this application Respondent no. 1 has added the name of Shri Pandurang Shrirang Gardi in the electricity bill. Now the Forum again come to the set out Procedure Order no. 236 of 03/05/2017 wherein it is mentioned that for arriving at the decision on the dispute Asst. Manager (IGR) after considering the genuineness of submitted documents, **physical occupancy of the premises (settled possession of the applicant)** may reverse the change of name or maintain status-quo. In this respect, the Forum has observed that no any remark of verification of physical occupancy (settled possession) has not been recorded by the Respondent No. 1. The Forum is therefore of the opinion of that addition of name of Shri

Pandurang Shrirang Gardi in the electricity bill do not comply with either of above cited Regulation or Procedure Order no. 236. The Forum has further observed that the Respondent no. 1 has not considered the oral submission of the complainant at the time of hearing in the IGR that there is already a suit filed by Respondent no. 2 with Bombay City Civil Court. This aspect could have been considered by Respondent no. 1 and maintain the status-quo till the final order from the court before adding the name of the Respondent no. 2 in the electricity bill.

12.0 The Forum further noted that the respondent No. 2 has filed a suit with Bombay City Civil Court under L.C. Suit No.1353 of 2017 and subsequently a Notice of Motion No.2167 of 2017 for restraining defendant No.1 (Smt. Rukhmini Ramdas Gardi in this case) temporary from entering in the suit premises namely Flat No. 301, 3rd floor, in A1 wing admeasuring 550 sq. feet. Carpet area in the newly constructed building known as Shreelaxmi Residency and the final order on the said suit is yet to be delivered by the Hon'ble Court. In view of the above cited facts and circumstances the Forum felt that the matter is with respect to actual claim on Flat No. 301, 3rd floor, of newly constructed building Shreelaxmi building by the complainant and The Respondent No.2. In the agreement executed between the parties there is mentioning the name of complainant in the main page of agreement and in additionally a table with the agreement also shown the name of Shri Pandurang Shrirang Gardi as tenant under the column tenant and also mentioned the name of Smt. Rukmini Ramdas Gardi under the column occupier. Forum has further observed that letter of MHADA dtd: 13/02/2017 addressed to Shri Pandurang Shrirang Gardi has mentioned the name Shri Pandurang Shrirag Gardi under the column Name of tenant and also mentioned Smt. Rukmini Ramdas Gardi and Shri Pandurang Shrirang Gardi under the column Name of the occupant. The Forum also found that MHADA has issued a letter to M/s Kshitija Infrastructure pvt. Ltd mentioning that a supplementary agreement with above stated occupants shall be executed. The Forum has also observed that the Respondent no. 2 had not raised any objection or applied for change of name when he came to know that from the year 2000 onwards, the electricity bill was in the name of Shri Ramdas Shrirang Gardi i.e. complainant's husband and the complainant was paying the electricity bill and only when redevelopment of the building took place during the year 2017, the Respondent no. 2 objected for adding the name in the electricity bill. The Respondent no. 2 has admitted the fact that the complainant alone was paying the electricity bill. The Forum therefore of the honest opinion that *prima facie* the case appears to be with respect to the dispute on claim of the said premises and complicated in nature and a final order of the case is pending with other authority in MHADA and Hon'ble City Civil court.

13.0 The Hon'ble City Civil Court is currently seized of the issue on who exactly is the owner of the suit premises, between the heirs of the two persons viz. Mr. Pandurang Gardi and deceased Mr. Ramdas Gardi. In its Order dt 20.8.2019 in a Notice of Motion, the Hon'ble City Civil Court has clearly stated that Mrs. Rukmini Ramdas Gardi is in possession of the new premises. In such circumstances, the continuation of the Electric connection with the current person in possession will neither cause prejudice to the Respondent no. 2 Mr. Pandurang Shrirang Gardi, nor in any way interfere in his

ultimate rights as decided by the said Court. We hence would concur with the decision of the Hon'ble City Civil Court in maintaining status quo in all matters, including the person in whose name the Electric Connection will continue. The BEST Undertaking is hereby directed to restore the name of Mrs. Rukmini Ramdas Gardi alone in the electricity bill and undo the change of name to joint names which was carried out by the Undertaking in November 2019. Hence, the grievance filed by Smt. Rukmini Ramdas Gardi is allowed. In result we pass the following order.

ORDER

- 1.0 The grievance no. N-E-403-2020 dtd. 13/01/2020 stands allowed.
- 2.0 The BEST Undertaking is hereby directed to restore the name of Mrs. Rukmini Ramdas Gardi alone in the electricity bill and undo the change of name to joint names which was carried out by the Undertaking in November 2019.
- 3.0 The Respondent BEST Undertaking is hereby directed to report of the compliance within one month from the receipt of the order.
- 4.0 Copies of this order be given to all the concerned parties.

sd/-
(Shri K. Pavithran)
Chairman / Member Licensee

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