

**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-FS-388-2019 dtd. 11/07/2019**

Debu Michael Martin .....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. Shri Rohit G. Baile, AAM(F/S)

On behalf of the Respondent 2 : 1 Shri Joslyn Mendes (Rep of 3<sup>rd</sup> Party)

On behalf of the Complainant : Shri Debu Michael Martin

Date of Hearing : 22/08/2019

Date of Order : 27/08/2019

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

Shri. Debu Miachael Martin came before the Forum regarding his dispute of transfer of electricity bill in the name of Shri Conrad D'souza having electric supply at 67, 3<sup>rd</sup> floor, 2 BIT Chawl, Vitthal Chavan Marg, Dr. Shirodkar Market, Parel, Mumbai -400 012 pertaining to a/c no. 578-307-625\*5.

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

The Mr. Cornad D'souza has approached to IGR Cell dated. 07/03/2019 received on 08/03/2019 for dispute regarding of transfer of electricity bill in the name of Shri. Debu Miachael Martin pertaining to A/c.No.578-307-625. The complainant has approached to CGRF in schedule 'A' dtd. 09/07/2019 received by CGRF on 09/07/2019 as complaint given by Mr. Cornad D'souza has treated as complaint in Annexure " C " and IGR Cell passed order in favour Mr. Cornad D'souza .

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

- 1.0. Shri. Debu Miachael Martin came before the Forum regarding his dispute of transfer of electricity bill in the name of Shri. Conrad D'souza pertaining to a/c no. 578-307-625\*5. He further stated that, the said premises has been given him as a gift by Shri Conrad D'souza vide gift deed dated 26<sup>th</sup> April 2016 and he allowed him to live in the premises on the basis of ill health.
- 2.0. Prior to 07/06/2016 electric supply has been given to the premises under reference in the name of Shri Conrad D'souza and there after it was transferred in the name of Shri. Debu Michael Martin in the month June 2016 vide I.D. no 2761603 dated 07/06/2016. Along with application for change of name, Shri Debu Miachael Martin had submitted consent letter / NOC for transfer of electricity bill, Affidavit dated 25/04/2016, Indemnity bond, undertaking letter etc and after transfer of electricity bill in his name new a/c no 578-307-029 was allotted.
- 3.0. Vide letter dated 07/03/2019 Shri Conrad D'souza has raised objection for transfer of electricity bill in the name Shri. Debu Miachael Martin. This letter was treated as complaint in Annexure " C " and hearing was scheduled on 12/04/2019. During the hearing both complainant and Shri. Debu Miachael Martin were absent.
- 4.0. Based on the facts, available documentary evidence and latest site inspection report and rent receipt No 2900051484 dated 06/03/2019 issued by BMC in favour of Shri Conrad D'souza, it is decided to revert the consumer A/c No 578-307-029 in the name of previous consumer i.e. Shri Conrad D'souza.

## REASONS

- 1.0 We have heard the argument of the complainant in person and for the Respondent BEST Undertaking Shri Rohit G. Baile, AAM(F/S) and representative of Respondent No.2 Shri Joslyn Mendes. Perused the written submission filed by the Respondent BEST Undertaking alongwith document marked as Exhibit 'A to L' and the documents filed by either party to the proceeding.
- 2.0 The complainant has vehemently submitted that one Mr. Conrad D'souza has gifted the said premises to him on 26/4/2016 and put him in possession of the said property and therefore, he along with affidavit and consent of Mr. Conrad D'souza had filed application for change of name and accordingly, the distribution licensee has rightly effected the change in his name. He has further submitted that after filing the objection by Mr. Conrad D'souza, the respondent has passed the order restoring the name of Mr. Conrad D'souza in the account and this action of the respondent has been challenged by the complainant. Against this, the respondent has submitted that as per Undertaking given by the complainant while filing the application for change of name as well as per Clause 2.9 of Terms and Conditions of Supply, they have rightly taken the decision to restore the name of previous consumers Mr. Conrad D'souza. The representative of Conrad D'souza has submitted that all the documents filed by complainant along with application for change of name are forged and bogus and therefore distribution licensee has rightly taken the decision to restore the name of earlier consumer. He has further submitted that Mr. Conrad D'souza had filed Civil Suit bearing LC Suit No.1342 of 2018 before City Civil Court, Mumbai against the complainant and others and prayed for declaration that the so called Gift Deed is bogus and still the suit is pending before the Court.
- 3.0 It is admitted fact that, LC Suit No.1342 of 2018 is filed before City Civil Court, Mumbai for declaration of Gift Deed as void and same is pending before City Civil Court. Thus in view of Clause 6.7 (d) of MERC ( CGRF & EO ) Regulations -2006 , this Forum shall not entertain this Grievance.
- 4.0 Having regard to the above said submission, we wish to say some admitted facts in the case. It is admitted that the premises belongs to B.M.C. and it is a Chawl in which mother of Mr. Conrad D'souza was residing. After death of mother, Mr. Conrad D'souza is/was occupying the premises. In view of the this admitted fact the question poses before us is whether tenanted premises can be gifted by the tenant. On this aspect we wish to state that in legal sense, tenant has no right to gift out his tenancy rights to others. We are saying so because as per definition of tenants as stated in Section 5 (11) of Bombay Rent Act, the person who was residing with the tenant at the time of death of tenant can be held as a tenant. In view of this legal position we are

unable to believe the case of complainant that Mr. Conrad D'souza gifted the tenanted premises to him. While arguing the case the complainant fairly conceded that because of ill health he allowed Mr. Conrad D'souza to occupy the premises after execution of so called Gift Deed.

- 5.0 We have gone through the procedure as enumerated under Clause 10 of MERC (Electricity Supply Code and Other Conditions of Supply) Regulation-2005. We also gone through the Procedure Order NO.236 dated 03/5/2017 issued by the Respondent stating the clarification and procedure for change of name cases. After perusal of the same, it appears that for tenancy premises, latest rent receipt (within one year time) in the applicant duly discharged by the Landlord is required to be filed along with application of change of name. In the instant case, no such rent receipt has been filed and on the contrary, rent receipt is still standing in the name of Mr. Conrad D'souza. In the said Procedure Order Clause 5.1. the following instructions are given. We think it just and proper to reproduce the same.

*“If the original consumer raises dispute after effecting change of name, Assistant Administrative Manager (IGR) shall summon both the disputant and the new consumer for hearing with all the documents. For arriving at a decision on the dispute, Asst. Administrative 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 status-quo.”*

The identical condition have been incorporated in the application filed by complainant for change of name. We think it just and proper to reproduce the same :-

*“In case of any dispute or any objection raised by the Landlord/any statutory Authority/Any other person on account of change in name of the above connection to my/our/name/names, BES&T Undertaking reserves the right to retransfer the connection in the name of original/registered consumers. This Undertaking will be binding on myself/our-self and my/our executers and administrators.”*

In view of this Undertaking given by the complainant now, he cannot go beyond the Undertaking and challenge the action of respondent in restoring the name of earlier consumer. The distribution licensee by Para No.2.9 of Terms and Conditions of Supply of BES&T Undertaking has made it clear that Undertaking shall neither be responsible nor liable to ascertain legality of adequacy of any No Objection Certificate/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 certificate/permission to be sufficient and valid unless proved to be contrary. In such cases the document found to be fraudulent at later stage, consequences shall be borne by the consumer. Thus it appears that the respondent is not expected to see the legality or correctness of the documents filed along with the application of change of name.

- 6.0 Having regard to the above said position coupled with the legality of the so called Gift Deed of transfer of tenancy right, we arrive at the conclusion that the action of respondent of restoring the name of earlier consumer appears to be legal and proper. In the instant case the respondent issued letter to Police to take action against the complainant for filing false and forged documents. If viewed from all these angles, we come to the conclusion that the respondent has rightly taken the decision to restore the name of earlier consumer i.e. Mr. Conrad D'souza.
- 7.0 While arguing the case, both the parties have submitted that Mr. Conrad D'souza is dead and now the premises is closed and no one is in possession of the property. Even if this would be the case, it is for the legal heirs of the Mr. Conrad D'souza to apply BES&T Undertaking for change of name.
- 8.0 For the above said reasons, we arrive at the conclusion that the respondent has rightly taken the decision to restore the name of earlier consumers by setting aside the name of complainant. Thus we do not find any substance in the complaint and deserves to be dismissed. Accordingly we pass the following orders :-

#### **ORDER**

- 1.0 The grievance no. N-F/S-388-2019 dated 11/07/2019 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**