

THE ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone-cum-Fax No.: 011-41009285)

Appeal No. 08/2023

(Against the CGRF-BYPL's order dated 16.01.2023 in Complaint No. 159/2022)

IN THE MATTER OF

Shri Rajinder Tiwari

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Rajinder Tiwari alongwith Shri Vineet Kumar, Advocate

Respondent No.1: Shri K. Jagatheesh, DGM, Shri Nishant Chauha, Manager,
Ms. Shweta Chaudhary, Legal Retainer and Ms. Ritu
Gupta, Advocate, on behalf of BYPL

Respondent No.2: Shri Vinod, in person.

Date of Hearing: 01.06.2023

Date of Order: 02.06.2023

ORDER

1. Appeal No. 08/2023 has been filed by Shri Rajinder Tiwari, R/o 3700/D/10, Gali No. 6, Shanti Mohalla, Gandhi Nagar, Delhi - 110031, through Shri Vineet Kumar, Advocate, against the CGRF-BYPL's order dated 16.01.2023 passed in Complaint No. 159/2022.

2. The instant case is that in the year 1991, Shri Rajinder Tiwari had purchased a portion (50 sq. yards) of property bearing House No. 3888, Gali No. 8, Shanti Mohalla, Gandhi Nagar, Delhi - 110031, from Shri Kedarnath (now deceased), who was erstwhile owner of the property. The Appellant constructed the new building on the property and now Late Shri Kedarnath and his son Shri Vinod started living there as a tenant. An electricity connection bearing CA No. 100686494 was already in existence at the



premises in the name of late Shri Kedarnath, which was being used by them. Later, the Appellant changed the said connection in his name but it was disconnected due to non-payment of the dues. The Appellant argued that since the electricity was being used by Shri Vinod (Respondent No. 2), therefore, the dues will be payable by him only.

3. The Appellant claimed that in spite of his objections, the Respondent got installed two electricity connections bearing CA No. 1501710480 on 10.03.2013 and CA No 150766535 on 06.05.2013 in the name of Shri Vinod and his father late Shri Kedarnath respectively. In this regard, the Appellant constantly filed a number of complaints with the Discom (Respondent No.-1), but all in vain. Then, the Appellant filed a complaint before the CGRF with a request to disconnect the electricity connections bearing CA Nos. 150710480 and 1507766535 installed on the basis of false/forged documents and the outstanding dues of Rs.8,016/- be recovered from Shri Vinod (Respondent No. 2).

4. In rebuttal, the Respondent No.-1 submitted before the CGRF that the alleged two connections were energized in the year 2013 on the basis of General Power of Attorney (GPA) dated 09.05.1983, which was objected to by the complainant who also lodged a FIR bearing No. 618/2013 dated 30.12.2013. Further, the Appellant had applied for a new electricity connection in April, 2022, for second floor of the building bearing No. X/3888/2 which was rejected on the ground of outstanding dues of Rs.8,016/- against disconnected connection having CA No. 10086494. Since then the Appellant sought relief for disconnection of the alleged two connections and dues of disconnected connection be transferred equally to three connections (i.e. 2 No. disputed connections and one on connection registered in his name i.e. xxxx367).

The site was again visited on 02.09.2022 by officials of Respondent and it was found that the property is divided into two portions. One portion of the building has electricity connections bearing CA Nos. 1501710480 and 150766535 with the billing address H. No. X/3888, Gali No. 8, Shanti Mohalla, Gandhi Nagar, Delhi, and on the other portion, the billing address is X/3888/2. The disconnected connection bearing CA No. 100686494 has billing address as X/3888, Gali No.8, Shanti Mohalla, Gandhi Nagar, Delhi, but was registered in the name of the complainant (Rajinder Tiwari). It is not possible to verify as to which portion of property i.e. X/3888 or X/3888/2 was being provided electricity before the disconnection of electricity.

5. The CGRF in its order dated 16.01.2023, considered the material on record as well as the submissions and observed that criminal as well as civil case is pending before the competent authority regarding ownership of property. As the complainant himself admitted that Late Kedarnath and his son were living there in the capacity of tenant, hence, as per Regulation 10(3) of DERC, Supply Code, 2017, not only the

owner, even the tenant can be given the electricity connection by the Discoms. Therefore, on the basis of facts and circumstances of the case, this Forum could not direct the Respondent to disconnect the supply of both electricity connections.

6. Aggrieved from the above order of the CGRF-BRPL, the Appellant filed this appeal on the grounds that the impugned order passed by the Forum is against the principles of natural justice. Despite providing a number of documents in support of his complaint, the matter has been decided in favour of the Respondent, whereas, the Respondent has not filed a single document in its favour. Therefore, the Appellant prayed that a proper action be taken against the employee/s of the Respondent who illegally installed the electricity connections on the basis of the false/forged documents.

7. The appeal was admitted and taken up for the hearing on 01.06.2023. During the hearing, all the parties were present along with their Counsels/Authorized Representatives. An opportunity was given to all to plead their case at length.

8. During the hearing, the Appellant reiterated the same as before the Forum. The Appellant further stated that his main conflict is that how the Respondent released the connection in 2013 without obtaining 'NOC' from the actual owner (the Appellant) of the premises. On being asked, whether the Appellant approached the Respondent in this regard during the period 2013 to 2022. The Appellant claimed that he made numerous complaints and followed up the matter continuously, but, no appropriate response received from them. The Appellant also objected how Smt Gita Devi could sign an Affidavit, NOC, etc. in 2013, when she expired in the year 1990. The Appellant also provided a copy of the death certificate which establishes that Gita Devi had already expired in 1990. The Appellant also reiterated his stand for punishment of officials of the Respondent, who were biased against him and didn't pay heed to his numerous requests.

9. In response, the Respondent submitted that as per the DERC (Supply Code & Performance Standards) Regulations, 2007, 'NOC' was required from the owner, if tenants apply for electricity connection. But subsequently in the DERC Regulations, 2017, it was dispensed with. In the present case, Shri Vinod (Respondent No.-2) had applied in the capacity of the owner of the premises, hence, 'NOC' was not required. The Respondent also submitted they have no mechanism to verify the documents. The Respondent further contended that connections cannot be disconnected, as Shri Vinod along with his brother are in possession of the premises. It is a matter of property dispute and litigation between the parties is subjudice. The Respondent further stated that the Appellant will not be asked for any pending dues, if applied for a new electricity connection. The Advisor (Engineering) explained the procedure/level adopted for



verification of documents. The Respondent admitted deficiency on their part with respect to forged GPA.

10. The Respondent No.-2 (Vinod Kumar) admitted that his father Kedarnath had got fake signature of Gita Devi made by him in the document of 'NOC' for release of electricity connections in the year 2013 and stated that his father has also expired.

11. It is apparent from the record that while the Appellant has claimed to be a holder of GPA issued by Late Shri Kedarnath in 1991, whereas for applying connections in 2013, Shri Kedarnath and his son Vinod had relied upon GPA dated 09.05.1983 issued by Shri Nepal Singh, in favour of Smt. Gita Devi, W/o Shri Kedarnath and Kedarnath, comprising area of 75 sq. yards in Khasra No. 23, along with submitted Indemnity Bonds to the Respondent. The Indemnity Bond,, however, is not a listed document in the DERC's Supply Code. The said GPA did not confer any authority on Vinod to act in any manner. The GPA was produced and examined in this court and it was found that is had the following discrepancies:

- (i) The date of GPA and the date of signature of Notary are different. According to the GPA submitted Notary has signed/notarized the GPA two years before it was executed which is not possible hence there was an attempt by the Respondent No.-2 to submit a fake/forged GPA.
- (ii) The signature of Gita Devi on the GPA/NOC/Indemnity Bond are forged as Smt. Gita Devi had already expired in 1990 (23 years before).
- (iii) Shri Vinod has no loci-standi as he does not figure on the documents as the owner etc.
- (iv) The land mentioned in the GPA has been sold to the Appellant and Appellant has already used GPA to get connection in his name and the officials of the DISCOM could not establish any link between the two documents. Land which has already been transferred by a GPA cannot be used for applying for new connection or for any other purpose.

FIR No. 618/2013 u/s 419/468/471 IPC was also got registered by Rajinder Tiwari against the opponents (Respondent No.- 2), in respect of forgery of the GPA and it was conveyed that charge-sheet has already been filed in the case after adducing the evidence.



12. The Civil Court of Senior Civil Judge-cum-Rent Controller, North East District, Karkardooma Courts, vide its order dated 08.02.2023, dismissed the suit by Shri Rajinder Tiwari for injunction simpliciter as not maintainable, in the absence of any prayer for declaration of title to the suit property. The Court observed that the Plaintiff's title was under cloud and he did not seek relief of declaration, possession and injunction. Hence, no civil case is subjudice in the above matter.

13. Regarding the validity of GPA, the Court placed reliance upon the decision of the Supreme Court in Suraj Lamp's case (AIR 2009 SC 3077), wherein the Court held that transactions of the nature of "GPA Sales" or "SA/GPA/WILL transfer" do not convey title and do not amount to transfer, nor can they be recognized as valid mode of transfer of immovable property.

14. This Court cannot give authoritative opinion on the validity of the GPA documents, yet, in view of the reasons given in para 11, this Court is of considered opinion and expresses concern on the failure of the Respondent to check the documents properly as there are glaring discrepancies. The Respondent also failed to take notice of pending dues, while allowing two new connections in the premises bearing No. 3888, Gali No.8, Shanti Mohalla, Gandhi Nagar, Delhi, during 2013, besides inaction for recovering the outstanding dues for nine long years i.e. 2013- 2022. The Field Officer also failed to carry out proper site inspection. The discrepancy in the GPA dated 09.05.1983 is apparent to naked eye since the same bears notarized stamp dated 13.01.1981 and does not confer any authority upon Vinod to act in any manner. The significance of the 'NOC' granted by Geeta Devi on 10.04.2013 for release of connections is not borne from record.

15. In view of foregoing discussion, this Court directs:

(a) That the Appellant be given connection after completing commercial formalities which includes making one-third of the outstanding amount, i.e. Rs.8,016/-. The remaining two-third amount be transferred to the remaining connections (in the name of Kedarnath & Vinod) and recovered from them.

(b) The Respondent is directed to take appropriate action for disconnection of the two connections released in 2013 in the light of prime facie proven fabrication and forging of signatures of Gita Devi, who had expired in 1990. Respondent may consider giving connections to them subsequently after completion of commercial formalities.




(c) Chief Executive Officer of the DISCOM to hold a detailed enquiry into the release of new connections during 2013, ignoring the outstanding dues and without proper verification of the documents produced and fix responsibility on erring officers.

(d) A robust mechanism be evolved defining the role of the officers during site inspection, particularly the details of the property, its habitation and examination of the documents relied upon for release of connection etc.

(f) Action taken report be submitted within four weeks of the issue of order.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
02.06.2023