

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Appeal No. 11/2023

(Against the CGRF-TPDDL's order dated 05.12.2022 in C.G Nos. 94/2022)

IN THE MATTER OF

Smt. Usha Gupta

Vs.

Tata Power Delhi Distribution Limited

Present:

Appellant: Smt. Usha Gupta & Shri S.P.Gutpa (Spouse), along with
Shri Vinod Kumar, Advocate

Respondent No.-1: Shri Ajay Joshi, Sr. Manager (Legal), on behalf of the TPDDL

Respondent No.-2: Shri Aditya Sharma, Advocate, on behalf of Smt. Sarika Gupta

Date of Hearing: 07.06.2023

Date of Order: 08.06.2023

ORDER

1. Appeal No. 11/2023 has been filed by Smt. Usha Gupta R/o C-79, Shivalik Colony, Malviya Nagar, Delhi -110017, through Advocate Shri Vinod Kumar, against the CGRF-TPDDL's order dated 05.12.2022 in CG No. 94/2022.

2. The brief of the case is that the Appellant approached the CGRF-TPDDL with a complaint that she is the owner of the premises No. 460, Kohat Enclave Pitampura, Delhi – 110034 and with the connivance of the officials of the Respondent, Smt. Sarika Gupta (Respondent No. 2), tenant on first floor, got released the electricity connection (CA No. 60029493214) on 29.06.2022 in her name on the false and fabricated documents. When she approached the Respondent to show her the documents on which basis the Respondent released the connection and also submitted proof of legal ownership of the property, she was not provided any documents or help in disconnection. Subsequently, eviction order was issued on



17.06.2022 in Civil Suit DJ No.588/21 by the Additional District Judge (ADJ-02)/(N/W), Rohini Courts, in her favour and against the tenant Smt. Sarika Gupta, upon consideration of the material on record and taking due note of notice dated 01.07.2021 for termination of tenancy on account of arrears of rent. The Respondent neither disconnected the connection nor provided her the General Power of Attorney on the basis of which they released the connection. The Appellant also stated that there was already a domestic electricity connection bearing CA No. 60012418566 at first floor in her husband's name (Shri Pal Gupta) and the same was disconnected due to non-payment and theft of energy.

3. After examining the issue and the material on record, the CGRF-TPDDL ordered that Smt. Sarika Gupta got the connection after completing all the commercial formalities, viz; submitted her Aadhar Card, Notarized GPA executed in her favour by the complainant. Further, as per complainant (Appellant before this Court), the electricity connection on the said premises, which was in her husband's name was already disconnected. Moreover, the fact of that eviction order was passed against Smt. Sarika Gupta was brought to the notice of the Respondent only after the impugned electricity connection was released. Presently, Smt. Sarika Gupta (Respondent No. -2) occupying the first floor of the premises as a tenant and cannot be left without electricity. It is beyond the jurisdiction of the Forum to examine the genuineness of the documents based on which connection got released, hence, disconnection of electricity connection CA No. 60029493214 cannot be granted. However, the Forum observed that the complainant is at liberty to approach the appropriate court regarding alleged forged and fabricated documents submitted by Smt. Sarika Gupta (Respondent No. -2).

4. Aggrieved from the order dated 05.12.2022 passed by the Forum, the Appellant filed this appeal and submitted the same facts as before the Forum. In addition, the Appellant also stated that since Smt. Sarika Gupta (Respondent No.-2) failed to submit the original General Power of Attorney dated 25.04.2022, the basis of alleged connection was released, an FIR No. 1112/2022 has been lodged on 06.12.2022, u/s 420/468/471/34 IPC against Smt. Sarika Gupta and officials of Respondent No.-1, for obtaining connection at the premises, in question. It was also mentioned that anticipatory bail application moved by Smt. Sarika Gupta has been dismissed by the Court of ASJ/Electricity)(N-W), Rohini Courts on 27.01.2023. Bail application was subsequently moved before the High Court of Delhi vide No. 427/2023 and CRL.M.A 3559/2023, where the Inquiry Officer (IO) of the Criminal Case filed a status report stating therein, that the Notary denied to have attested the GPA and opposed the bail application.



5. Citing above, the Appellant prayed to direct the Respondent for disconnection of electricity connection (CA No. 60029493214) in the name of Smt. Sarika Gupta (Respondent No. -2) installed at first floor of the premises as mentioned above and, to award compensation for physical and mental harassment.

6. In rebuttal, the Respondent No.-1, through its General Manager, have in their reply dated 02.05.2023 submitted that as per Regulation 10(1)(vi) of DERC's Supply Code, 2017, electricity supply did not confer any right or title over the property. The Appellant was informed by communication dated 18.07.2022 that connection bearing CA No. 60029493214 in the name of Smt. Sarika Gupta was released on 29.06.2022 after completion of commercial formalities whereas decree of eviction in respect of suit property was only provided by the complainant on 11.07.2022. Moreover, the Appellant did not raise any resistance/objection at the time of installation of the meter. After obtaining peaceful possession of the property from the Court, the Appellant can apply for removal of meter/disconnection. The CGRF had rightly observed that it was beyond the jurisdiction of the Forum to examine the genuineness of the documents. Hence, disconnection of CA No. 60029493214 in the name of Smt. Sarika Gupta could not be granted. The complainant was at liberty to approach the Court regarding alleged forged and fabricated documents.

7. The appeal was admitted and taken up for the hearing on 07.06.2023. During the hearing, all the parties were present along with their respective Counsels/Authorized Representatives. An opportunity was given to all to plead their respective cases at length.

8. During the hearing, the Counsel of the Appellant stated that despite writing two letters to the Respondent i.e. dated 18.08.2021 and 29.06.2022, no action was taken by the Respondent No.-1. Even eviction order of Rohini Court in her favour (Usha Gupta) was not considered. Whereas, forged/ fabricated documents, i.e. Special Power Attorney, Affidavit / No Objection Certificate submitted by Smt. Sarika Gupta (Respondent No.2) for releasing disputed connection were taken on record.

On being asked about theft cases booked against Smt. Sarika Gupta (Respondent No.2), appellant submitted that three times theft cases have been booked against premises. Smt. Sarika Gupta and his husband Shri Rajkumar were users of that connection and the Appellant's husband, Shri S.P. Gupta was registered consumer. The Counsel of the Appellant also mentioned that there is no personal relation between Appellant and the Respondent No.2.



On being asked about status of eviction proceedings before Hon'ble High Court, Advocate submitted that the same is still subjudice. The Appellant further stated that the Respondent has taken reliance on Regulation 10 (3) of DERC Regulations, 2017, whereas, this case falls under the Regulation 11 (vi), which says, *"xxxx the Licensee shall provide the electricity connection to such applicant only through pre-payment meter xxxx"*. So, Respondent No.2 should have been provided pre-payment meter. However, permanent connection was granted to illegal occupant.

9. The Counsel of Smt. Sarika Gupta (Respondent No.2), rebutted that Special Power of Attorney, duly witnessed, was given by Smt. Usha Gupta to Smt. Sarika Gupta. In this regard, matter is subjudice between the parties before Hon'ble High Court of Delhi. Stay has been granted against eviction order which is still continuing. Anticipatory bail was also granted to Sarika Gupta by Hon'ble High Court. However, the Counsel was conveyed by the Ombudsman that the bail does not give any certification of non-involvement of Respondents in the case, it is a procedure under criminal procedure/Code.

10. In rebuttal, Shri Ajay Joshi, appeared for Respondent No.-1, reiterated its version as submitted in written submission. On being asked (a) when Respondent No.2 (Sarika Gupta) applied for a new connection on 22.04.2022, already an objection letter dated 19.08.2021 revealing termination of her tenancy was with them. The letter also mentioned regarding dispute with Respondent No.-2. In these circumstances, no connection should have been released. Moreover, Appellant's subsequent objection on 11.07.2022 was also not considered, (b) Whether the SPA filed by Respondent No. -2 is a valid document or alleged connection was released in connivance with officials intentionally. The Respondent could not give satisfactory response. The procedure for releasing connection was explained to the Counsel of Respondent No.-1 by Advisor (Engineering) and it was conveyed that the process was bypassed hurriedly to release connection.

It was further explained that the deficiency could have been flagged so that during site verification it could be removed. In support on their contention, Respondent also submitted a settlement order of Permanent Lok Adalat between Sarika Gupta vs. TPDDL against that connection which directs to restore the connection and settled the dues with a condition that if Sarika Gupta applies for a new connection, it will be granted to her. PLA order was taken on record. However, Respondent was clarified that connection could only be given after completion of commercial formalities and should be granted as per regulations.



11. Perusal of the record indicates that on one hand, Smt. Sarika Gupta (Respondent No.-2), w/o Shri Raj Kumar (as shown in GPA submitted before the CGRE and at other place Sarika Gupta w/o Shri Vijay Kumar Gupta (as shown in SPA/Affidavit submitted before the Ombudsman. This discrepancy needed to be looked into by the Respondent, raising doubt on the credentials. Moreover, as per GPA executed on 25.04.2022, the tenant is conferred upon power to sell/mortgage the tenancy property, which is an apparent contradiction to the ordinary tenancy.

The argument put forth by the Respondent that they are not in a position to verify the genuineness of the documents submitted by the Appellant seems to be a valid argument. Yet the documents when seen in the light of history of the address i.e. (a) there are disconnection/reconnection because of complaints of theft (18.06.2021 and 11.07.2022), (b) there are multitudes of complaints by the Appellant and (c) case of eviction of the tenant (Sarika Gupta) is going on in the court of Rent Controller (ASJ). The above historical facts make the document submitted by the tenant for getting a connection become suspect. In addition, despite the facts mentioned above, the owner issues a GPA favouring the tenant (even for selling) when the proceedings of eviction are underway. Moreover, the Inquiry Officer of this case in question has submitted in the Court during bail application of the Respondent No.-2 that notary refused to and own up the signature on the said GPA. This court is of emphatic view that the verification undertaken during field visit is also a sham and has been carried out in connivance with the officials of the Respondent. The second argument that nobody resisted /reacted at the time of installation doesn't also hold water as the Appellant is staying at least an hour away from the address in question and there was definitely an "understanding" between both the Respondents for hurriedly installing the connection.

12. I have heard all the parties at length and in the light of the pleadings of the parties and the admissions made by the Respondent(s) in written submissions, it is clear that there was relationship of tenancy between the landlord (Appellant) and the tenant (Respondent No.-2). It is also clear that the Appellant is the owner and Smt Sarika Gupta, Respondent No.- 2 was a tenant. The tenancy stood terminated vide notice dated 01.07.2021 and the Court of ADJ-2 (N-W), Rohini Courts, on 17.06.2022 passed a decree for eviction of the tenant from the property. The electricity connection as per Respondent was released to Smt. Sarika Gupta (Respondent No.- 2) on GPA, which was apparently in conformity to DERC's Supply Code, 2017, Regulation 10(3)(iii), as claimed by the Respondent.



13. The above facts indicate strongly that the GPA is fake/fabricated. This Court has gone through the appeal, the written statements of the Respondent and also heard them in detail. This Court has also gone through the relevant provisions of the SOP, etc. and is of opinion that wrong has been committed by both the Respondents and, hence, directs as under:


(a) As the connection has been taken on the basis of fake/forged GPA, it be disconnected forthwith by the Respondent (in next 15 days). Respondent No.-2, may subsequently apply to the connection after completing all commercial formalities.

(b) The CEO, of the DISCOM may order a vigilance enquiry into the role of the staff and former employee Deepak in allowing illegal connection/restoring disconnected connections as well as inaction on the complaints on different dates, alleging theft of electricity by tenants on ground floor and first floor.

(c) The CEO may evolve a mechanism defining the role of the field staff and proper enquiry during site visit, in particular to consider the details of the property, its habitation and verification of the documents submitted with reference to the original. Any doubt on credentials should be noted and reported by the field staff to the Discom

(d) The action taken report on Points (b) & (c) may be shared with this office within a month of receipt of order.

The case is disposed off accordingly.


(P. K. Bhardwaj)
Electricity Ombudsman
08.06.2023