

OFFICE OF 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 No: 011- 26144979)

Appeal No. 12/2021

(Against the CGRF-TPDDL's order dated 29.09.2020 in CG No. 73/2020)

IN THE MATTER OF

SHRI KRISHAN KUMAR

Vs.

TATA POWER DELHI DISTRIBUTION LTD.

Present:

Appellant : Shri Nitin Singhal and Ms. Sanya Singhal on behalf of the Appellant

Respondent (1): Shri Ajay Joshi, Sr. Manager and Shri Arun Malik, Manager on behalf of the TPDDL.

Respondent (2): Shri Saurabh Kumar, Authorized Representative on behalf of Shri Rajesh Gupta

Date of Hearing: 26.07.2021

Date of Order: 10.08.2021

ORDER

1. The appeal No. 12/2021 has been filed by Shri Krishan Kumar, against the order of the Forum (CGRF-TPDDL) dated 29.09.2020 passed in CG No. 73/2020. The issue concerned in the Appellant's grievance is regarding disconnection of the electricity connection bearing C.A. No. 60018701965 granted by the Discom (Respondent No. 1) in the name of Shri Rajesh Gupta, on the basis of forged, fake and fabricated documents submitted by him. The connection in question is installed at Khasra No. 71/14, Kaushik Enclave, Swaroop Nagar, Burari, Delhi - 110084. Since for the purpose of disposal of the case presence of Shri Rajesh Gupta was necessary being the Registered Consumer of the said electricity

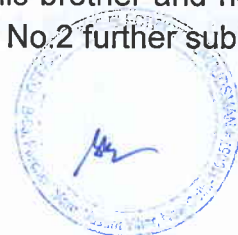


connection, therefore Shri Rajesh Gupta has been impleaded as Respondent No. 2 and a notice was also issued to him to file his counter reply.

2. The Appellant submitted that he is the registered sole and absolute owner of the property bearing address Khasra No. 71/14, Kaushik Enclave, Swaroop Nagar, Burari, Delhi- 110084. He further stated that his real brother Shri Rajesh Gupta, who was not having any space for commercial activity requested him to provide the above said property and in turn he considered his request sympathetically and allowed him to do commercial activities in the above said property. Later on, he requested Shri Rajesh Gupta to make his own arrangement and vacate the said premises but he continued with the possession of the property. Further, in the year 2019, he came to know that an electricity connection has been installed at the said premises without his permission and as the Respondent No. 2 did not give any satisfactory reply as to why he got the electricity connection installed without his permission, he filed a complaint with the CGRF. He further came to know that the Respondent No. 2 had prepared fake and forged Will, GPA, Sale Agreement, etc., and on the basis of the aforesaid documents he applied for the electricity connection and got it installed from the Discom. He further submitted that the Discom refused to verify and check the authenticity of the property ownership documents and dismissed his plea out rightly denying justice to him. He also added that the Respondent No. 2 also tried to manipulate the CGRF by filing the fake affidavit of his father, Shri Khushi Ram and thus the Respondent No. 2 does not possess the title of the said property.

In view of above, the Appellant has prayed for proper investigation of chain of property documents of both the parties and impart appropriate direction to the Discom to disconnect the electricity connection installed at the said premises. He has further prayed to impose appropriate fine on Respondent No. 2 for getting the electricity connection on the basis of fake, forged and fabricated title documents of the said property.

3. The Respondent No. 2, Shri Rajesh Gupta filed his reply vide which he submitted that he and his wife are sole and absolute owner of the property bearing Khasra No. 71/14, Ground Floor, Kaushik Enclave, Village Burari, Delhi-110084, and the property is in his possession on the basis of ownership documents, i.e. GPA, Agreement to Sell, Affidavit, Receipt and Will dated 10.09.20214. He further stated that the Appellant is his brother and he wants to grab the possession of this property. The Respondent No.2 further submitted that



he applied for an electricity connection on the basis of aforesaid documents and the same was released by the Discom in his name after verification of the documents, bearing CA No. 60018701965. Regarding the said property, the Respondent No. 2 clarified further that their father Shri Khushi Ram during his lifetime distributed his entire property in favour of his two sons, by giving the Model Town property to the Appellant and Shakti Nagar Property to him i.e. Respondent No. 2, hence the appeal filed by the Appellant against him is liable to be dismissed. He further stated that on 26.03.1998, a hand written document was executed by the Appellant in the presence of their father Shri Khushi Ram, which states that he is concerned only with the Model Town property and has nothing to do with the Burari Village and Shakti Nagar property.

The Respondent No. 2 further submitted that the complaint was filed by the Appellant in the CGRF only in the year 2020, whereas the cause of action i.e. release of electricity connection had occurred in the year 2014. He also stated that the Appellant has not filed any ownership documents pertaining to the property in question and neither he has made any mention in his complaint as to since when the said property is in the possession of the Respondent No. 2. He also added that the contents of the appeal are wrong, baseless and false and further added that the papers were duly scrutinized by the Discom before releasing the connection. He further stated that he never ever requested the Appellant for getting the space in the property for using the same for commercial activity as he is the absolute owner of the said property since the year 2014 by virtue of ownership documents, i.e. GPA, Agreement to Sell, Affidavit, Receipt and Will dated 10.09.2014. He refuted the allegations of forged documents and stated that the premises where the said connection is installed is under his ownership rights and titles and all the bills, challans, dues etc. are being paid by him. He also denied of having filed the fake affidavit of Shri Khushi Ram during the course of hearing in the CGRF.

In view of above, the Respondent No. 2 prayed to dismiss the appeal of the Appellant in the interest of justice.

4. The Discom (Respondent No. 1) in its reply submitted that the Appellant had filed the complaint before the CGRF alleging the fact that the premises Khasra No. 71/14, Kaushik Enclave, Swaroop Nagar Road, Burari, Delhi- 110084 is in possession of Shri Rajesh Gupta and electricity connection bearing CA No. 60018701965 was sanctioned in his favour without acknowledgement of the



owner i.e. Shri Krishan Kumar, the Appellant. He has further prayed to remove the above referred electricity meter/connection. The Discom further submitted that the electricity connection bearing CA No. 60018701965 was applied by Shri Rajesh Gupta, the Respondent No. 2, in the year 2014 and the same was released way back in his favour after completion of prescribed commercial formalities. The Respondent No. 2 at the time of applying the connection submitted duly signed and filled new connection Application Form along with Declaration Form, copy of notarized GPA (General Power of Attorney), copy of Will Deed executed in his favour, copy of Photo Identification Proof and Passport Size photograph. It is also submitted that the Appellant opposed the installation of connection after elapse of more than six years as connection was released in the year 2014. It is also pointed out that the issue involved in the appeal is squarely related to inter se dispute between the Appellant and Shri Rajesh Gupta (Respondent No. 2), however, the Discom is unnecessarily being dragged in their dispute.

The Discom further added that Shri Rajesh Gupta (Respondent No. 2) and Shri Krishan Kumar, the Appellant, are real brothers and the property Khasra No. 71/14, Kaushik Enclave, Swaroop Nagar Road, Burari, Delhi- 110084, came into the share of Shri Rajesh Gupta consequent to family settlement and the Appellant also gave his hand written note to this effect on 26.03.1998. Shri Khushi Ram, father of Shri Rajesh Gupta and Shri Krishan Kumar was the owner of the said property at Burari and as per Family Settlement gave it to Respondent No. 2. Later on, he sold the said property to his wife Smt. Ritu Gupta on 26.09.2016 and also got the property mutated in his wife's name and House Tax etc. are also being regularly paid by her/him. Whereas, as per the Appellant, he allowed the Respondent No. 2, to occupy the said premises out of love and affection however he never gave consent for electricity connection in the name of Shri Rajesh Gupta, the Respondent No. 2. In this regards, it was also added by the Appellant that he did not take any action for approximately six years against his brother as it was difficult for him to travel from his residence in Model Town to Burari regularly. The Discom further added that Shri Rajesh Gupta during the course of proceedings before the CGRF mentioned that the father of the Appellant Shri Khushi Ram is still alive and he filed an affidavit to this affect. This fact that his father is alive remained uncontroverted by the Appellant.

5. The Discom also submitted that the contention of the Appellant with respect to providing property to his brother Shri Rajesh Gupta for commercial



activities clearly establishes that the Respondent No. 2 was in possession/occupation of the property whereon he sought the electricity connection and provided documents related thereto. Rest of the contention of the Appellant further establishes that later on some dispute over property cropped up between him and his brother. The Appellant is making issue of electricity instrumental to settle their dispute and they are unnecessarily being dragged in their property dispute. The Discom further denied all the claims and contentions of the Appellant as same are without substance and merits. It is imperative to mention here that the Respondent No. 2 at the time of applying new connection at the premises submitted copy of Notarized GPA, Will Deed executed by his father in favour of Respondent No. 2, thus the contention of the Appellant of not getting his permission for release of connection is without any basis. It is further submitted here that electricity connection in favour of Respondent No. 2 was released in the year 2014 and the Appellant started raising the dispute after considerable elapse of time that is more than six years.

It was further added by the Discom that it is pertinent to mention here that the CGRF in its Final Order recorded that the Appellant has not resorted to any legal recourse against Respondent No. 2 for Declaration, Eviction, Injunction or Possession before any Court of Law. The CGRF further recorded that genuinity of documents cannot be examined by the Discom at the time of accepting the application forms for electricity connections from their prospective consumers as they are not authorized nor are they equipped to do so and primarily because they are in business of supplying electricity are under obligation to provide electricity to their applicants. As per Regulation 10(vii) of DERC (Supply Code and Performance Standards) Regulations, 2017 - "The electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or titles over the premises." Therefore, the dispute raised by the Appellant is clearly related to determination of title of property and same does not fall within the jurisdiction of the CGRF and the Electricity Ombudsman. Further, the Discom vehemently denied all contentions/claims of the Appellant and also submitted that the responsibility to ensure that premises is under lawful occupancy and safe from trespassers lies on the owner thereof and the Discom cannot be saddled with the same in relation to premises. Moreover, it is relevant to submit here that they are under universal obligation to supply electricity to its consumers and in order to supply them it seeks for completion of prescribed commercial formalities and payment of requisite charges on the part of the applicants before their request is allowed. The said formalities include inter alia



the submission of relevant information and documents in support of the ownership and or lawful occupancy which is GPA and Will Deed in this matter. It is further submitted that adjudication of the legality and propriety of the claims as asserted by the Appellant and Respondent No. 2, in the present case are civil in nature and the jurisdiction for the same lies with Civil Court/other Courts having competent jurisdiction in this regard.

Finally, the Discom submitted that they have acted in accordance with the provisions of the regulations and hence the CGRF has passed the order after considering all aspects of the appeal/complaint and has rightly determined the issues involved. In view of above, the Discom prayed that in their considered opinion, reliefs claimed by the Appellant cannot be granted to him and accordingly the appeal be dismissed in above terms. It also needs to be dismissed as the same is primarily related to the dispute with respect to title of the property and this court is not the appropriate authority to determine this nature of dispute.

6. After hearing both the parties at length and considering the material on record, the basic issue revolves around the fact that the Appellant filed a complaint before the CGRF for disconnection of the electricity connection in the name of Shri Rajesh Gupta, the Respondent No.2, which has allegedly been installed illegally by the Discom on the basis of forged and fabricated documents. He has further alleged that the electricity connection has been obtained at the said property without his permission since he is the sole and absolute owner of the same. In this regards, it is observed that the said electricity connection was obtained by the Respondent No. 2 in the year 2014 and the Appellant has filed the complaint in the year 2020. Further, as per the records available it is observed that the Discom has released the connection in the name of Shri Rajesh Gupta on the basis of documents required for ownership and occupancy of the premises as provided/submitted by him. In support of the same the Respondent No. 2 had submitted the copies of the ownership documents i.e. GPA, Affidavit, Will dated 10.09.2014, Agreement to Sell, etc. and on the basis of the same the electricity connection was released by the Discom. In view of above, the documents as submitted by the Respondent No. 2 are sufficient to fulfill the requirement to release the connection as per the DERC, Supply Code and Performance Standards Regulations, 2007.



7. The CGRF has also gone into the details of the case and has rightly concluded that the Respondent No. 2 has submitted the complete chain of property documents along with other relevant documents like GPA, Will etc. which appears to be authentic and valid and there is no method by which the genuinity of the same can be examined. The CGRF has also rightly opined that these documents were sufficient for the purpose of release of connection to the Respondent No. 2 as per the requirement of the Regulations. Secondly, even if for the sake of arguments there was some doubt about the genuinity of the documents even then being an occupier of the premises, the Respondent No. 2 was entitled to get the connection released in his name as per the extant regulations. After considering all the aspects of the case, the CGRF has rightly concluded as under:

- "1. Respondent No. 2 got the connection released on his name in 2014 on the basis of apparently valid documents which were sufficient for the purpose of grant of electricity connection.
2. Genuinity of documents cannot be examined by the Respondent No. 1 at the time or accepting the application forms for electricity connections from their prospective consumers as they are not authorized nor are they equipped to do so and primarily because they are in the business of supplying of electricity and are under obligation to provide electricity to their applicants.
3. Forum cannot examine the genuinity of the documents since lots of examination and cross examination of the witnesses, forensic reports, lots of evidences etc. are required before holding any documents genuine or forged and Forum does not have the expertise or jurisdiction to do so. Hence, in order to declare any document forged or fabricated, complainant has to approach the appropriate Court.
4. Further, at such a belated stage Respondent No. 2 cannot be disturbed from his settled position without order of ownership or declaring the documents submitted by the Respondent No. 2 as fake or fabricated from the competent Court in favour of complainant.
5. That otherwise also admittedly Respondent No. 2 is in occupancy of the said premises and in his own right he is entitled to get electricity connection on his own name.



6. Till date no legal recourse has been taken by the Complainant against Respondent No. 2 for Declaration, Eviction, Injunction or Possession before any Court of Law.
7. It's a settled preposition of law that the electricity connection does not create any right, title or interest in favour of or against any person as per Regulation 10(II) of DERC Regulations, 2017."

8. Further, during the course of hearing, the Appellant also submitted that he has already filed a criminal complaint as well as FIR against the Respondent No. 2. He also submitted the certified true copy of General Power of Attorney in his favour i.e. Shri Krishan Kumar and the copy of the Criminal complaint filed by him in the Court of Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi in support of his contentions that the property belongs to him, which were taken on record.

In view of the above background, it is held that the documents submitted by the Respondent No. 2 were sufficient for the purpose of release of electricity connection as per the requirement of the regulations. Secondly, as the Respondent No. 2 was also in the possession of the premises as admitted by the Appellant himself, hence he was therefore eligible for getting the electricity connection released as per the provision of regulations. However, in this regards, it is pertinent to mention here that the Regulation 10 (1) (vii) of DERC (Supply Code and Performance Standards) Regulations, 2017, is quite clear in these terms that the electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or titles over the premises. Therefore, the contention of the Appellant that the release of electricity connection was without his approval or knowledge is thus not tenable. During the course of pleadings, many other objections being Civil/Criminal in nature regarding genuinity of the documents, as submitted by the Respondent No.2, were raised by the Appellant vehemently to get the relief for disconnection of the electricity connection released in the name of Respondent No. 2, but as these objections cannot be examined by this Court, as they are beyond the jurisdiction, hence, the same are not being discussed here. Further, as the papers on the basis of which the connection was released are under challenge in the Civil Court for which the Appellant has already filed a case in the Court of Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi, there is no point in deliberating the same, as the same is subjudice.



As regards the contention of the Appellant regarding the connection having been obtained on the basis of forged and fabricated documents, it is held that this is beyond the purview of this Court to carry out investigation about the same and adjudicate upon the authenticity of the documents, which is purely the subject matter of the appropriate Civil Court. The present appeal has raised such disputed facts as asserted by the Appellant which needs extensive trial and as such the Appellant needs to exhaust proper remedy by way of civil suit and the same cannot be done in summary proceedings in this appeal.

In view of the facts and circumstances viz-a-viz the scrutiny of the available documents and background of above/aforesaid analysis, it is held that the existing electricity connection cannot be disconnected in the present facts and circumstances of the case. Therefore, it is prudently decided that there is no substance in the appeal of the Appellant and that there is no need to interfere with the verdict of the CGRF.

The appeal is disposed of accordingly.



(S.C.Vashishta)
Electricity Ombudsman
10.08.2021