

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. 25/2020

(Against the CGRF-BRPL's order dated 20.10.2020 in CG. No. 05/2020)

IN THE MATTER OF

Shri Khosmendir Singh Gahunia

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Khosmendir Singh Gahunia

**Respondent: Shri S. Bhattacharjee, Sr. Manager, Ms. Renu Sharma,
Manager and Shri Deepak Pathak, Advocate, on behalf of BRPL**

Date of Hearing: 04.03.2021

Date of Order: 15.03.2021

ORDER

1. The Appeal No. 25/2020 has been filed by Shri Khosmendir Singh Gahunia, against the order of the Forum (CGRF-BRPL) dated 20.10.2020 passed in C.G. No. 05/2020. The issue concerned in the Appellant's grievance is regarding the reduction of load and change of name of the two electricity connections installed at the premises bearing No. P-18, South Extension - 2, New Delhi - 110049.

2. The brief background of the case is that the Appellant had approached the CGRF praying for the change of name of the two electricity connections installed in the premises at P-18, South Extension - 2, New Delhi-110049, in the name of Shri Kaldeep Singh Brar or himself, reduction in the sanctioned load of



the said existing connections and claim for compensation on account of violation of the Regulation 17 of DERC (Supply Code and Performance Standards) Regulations, 2017 by the Discom and, accordingly, issue the directions to the Discom.

3. The Appellant presented himself as a complainant claiming as the owner of the said premises/property being the GPA (General Power of Attorney) holder of the said premises executed by Shri Kaldeep Singh Brar S/o Late Gurnaik Singh who purported to have executed a WILL in favour of Shri Kaldeep Singh Brar. Both these documents i.e. GPA and WILL were submitted by the Appellant to show his claim of being a complainant before the CGRF but GPA executed by Shri Kaldeep Singh Brar is not registered and is only notarized whereas the WILL of Late Gurnaik Singh in favour of Shri Kaldeep Singh Brar is not mutated/probated.

4. The pleas and prayers of the Appellant, however, were rejected by the CGRF on the basis that both the documents, i.e. the GPA and the WILL submitted by him are not valid for want of appropriate legal formalities. Further, the GPA submitted by the Appellant is very old and gives him a limited authority to represent Shri Kaldeep Singh Brar i.e. to represent him in the court cases filed by his tenants and to deal with the legal matters pertaining to the said premises but it does not give any authority to the Appellant to represent himself and act before the electricity authority since the property documents are not clear and the Appellant also does not possess any 'Authority Letter' from Shri Kaldeep Singh Brar to represent him before the Discom (Respondent) and the CGRF. Accordingly, the case was rejected by the CGRF.

5. Aggrieved with the order of the CGRF, the Appellant has preferred this appeal praying that the impugned order dated 20.10.2020 passed by the CGRF be set-aside alongwith the prayer to pass appropriate direction to the Discom, to change the name, reduce the sanctioned load, award the compensation in favour of the Appellant and also to pass appropriate direction to the Discom to refund the electricity payment/charges collected from December, 2018 through provisional bills.

6. The hearing started with the deposition of the Appellant who started his arguments with the contention that he, being the GPA holder of the premises P-18, South Extension – 2, New Delhi-110049, is the owner of the said premises where the two electricity connections are installed. Therefore, he is authorized to approach the Discom for the name change and the reduction of load of the said



electricity connections. Since the owner of the premises Late Gurnaik Singh had made a WILL dated 12.03.1996 in favour of his son Shri Kaldeep Singh Brar who is a permanent resident of USA, the Appellant has been appointed through the 'General Power of Attorney' to act on his behalf to exercise all the proprietary rights against the said property executed by Shri Kaldeep Singh Brar. Since the existing electricity connections have illegally been released/installed to unauthorized occupants, therefore, they are illegal Registered Consumers (RCs) which were wrongly given by the Discom in the names of Ms. Dolly Kapoor and Mr Amar Singh respectively who are neither the property owners nor the occupants now. He, further, submitted that despite serving several notices to Discom in different years i.e. in 2013, 2017, 2018, 2019, no action for transfer of these electricity connections in the name of the original owner i.e. Shri Kaldeep Singh Brar has been taken by the Discom.

7. The Appellant further submitted that he approached the Discom to change the name of the said connections either in the name of Shri Kaldeep Singh Brar or in his name and reduction of the load but his request has also not been acknowledged by the Discom. Since no action was taken by the Discom, he filed the petition before the CGRF and prayed for issuing direction to the Discom to change the name, reduction in the sanctioned load and also for compensation on account of prolonged delay in violation of Regulation 17 of DERC (Supply Code and Performance Standards) Regulations, 2017 but the CGRF in its order dated 20.10.2020 rejected his prayer by stating that he has failed to prove his clear title to the said property. Therefore, his request cannot be considered.

8. During the hearing, the CGRF had directed the Appellant to furnish the requisite documents i.e. the NOC from the co-owners of the property and the death certificate of the actual owner Late Shri Gurnaik Singh. Notwithstanding the CGRF's direction to the Appellant, he could not give a satisfactory reply as to why he could not produce the documents as required by the CGRF. The same question was also posed during the present hearing, but he could not give a clear and proper answer here too and remained obtrusive. He was also asked during the hearing that why the GPA is only notarized and does not have the signatures of the two witnesses, and why the WILL is not mutated/probated, to which the Appellant also could not give a plausible reply/explanation. He simply kept on reiterating that both the WILL and the GPA are valid as he had won the court case against the tenants on the basis of these documents and accordingly, he is authorized to represent the case before the Electricity Authorities too. On being asked further that since Shri Kaldeep Singh Brar is living in USA and in today's



electronic age of fast communication why he is not obtaining the 'Authority Letter' from him to which the Appellant did not give any direct and satisfactory reply and instead again started insisting his authority through GPA only.

9. Thus, in his deposition during the hearing the Appellant simply kept on insisting upon his contention that whatever documents i.e. the copies of the GPA and the WILL submitted by him are sufficient to prove his authority and ownership to apply for the change of the name of both the electricity connections, load reduction and accordingly he is also entitled for compensation. To the query about the other legal heirs of the said property, i.e., the other two sons of Late Shri Gurnaik Singh, the Appellant though admitting the fact gave only evasive and obscure replies and the submissions of the Appellant kept on revolving around his claim of being an original representative/owner to represent his case before the Discom on the basis the GPA executed in his favour by the executant, Shri Kaldeep Singh Brar. He, however, could not give any satisfactory reply as to why he can't obtain an 'Authority Letter' from Shri Kaldeep Singh Brar through e-mail who stays in USA and 'No Objection Certificates' (NOCs) from the other legal heirs of the property who also stay abroad through the e-mails.

10. The Discom, represented through Shri Deepak Pathak, advocate, submitted in reply that the request of Appellant regarding load reduction and name change cannot be carried out as he has not been able to submit the 'requisite documents' as required under Regulation 17 of DERC (Supply Code and Performance Standards) Regulations, 2017. He, further, stated that whatever papers have been submitted by the Appellant are not valid as he has submitted a copy of the GPA which is neither registered nor bears the signatures of the two witnesses and is only notarized and the WILL submitted by him is also not mutated/probated for want of which the WILL holder does not become the sole owner of the property even over which the other legal heirs, who are alive, also possess the ownership rights. The claim of the Appellant that he is the owner of the said property/premises to carry out any activity by virtue of the GPA is not at all valid legally and thus not tenable in the eyes of the law because he cannot claim himself to be landlord of the said property without the valid title documents. The GPA is only for the purpose to represent the executant of the GPA, namely, Shri Kaldeep Singh Brar, in the court cases against the tenants and to deal with other legal matters which, however, does not give any right to the Appellant to apply for change of name of the electricity meters either in the name of Shri Kaldeep Singh Brar or the Appellant himself. Moreover, the GPA dated 08.03.2001 submitted by the Appellant is quite old and does not



accomplice with any recent documents of the owner of the property or any authority from the executant of the GPA to represent him either before the Discom, the Forum and the Ombudsman.

11. The Discom, further, contended that it could be proper for the Appellant that he should ask the owners of the property to upload their recent up-dated documents on the website of the Discom and also to fill online application for getting the name change and the load reduction. It would also be appropriate that all the legal heirs of Late Shri Gurnaik Singh should send an e-mail to the Discom for the required action after completing all the formalities. Thus, in the absence of any valid title documents and also without the death certificate of Shri Gurnaik Singh who was having three children at the time of his death, it would not be appropriate and lawful to effect the transfer of the name of the registered consumers in the name of the appellant or in the name of Shri Kaldeep Singh Brar as the other two legal heirs (two sons) may raise the objection against the same and may put Discom into future litigation etc. The Discom, further, argued that they are no authority to investigate the authenticity and the validity of the documents submitted by the Appellant i.e. the GPA and the WILL of the executants.

12. On the basis of the pleadings, contentions and submissions of both the parties i.e. the Appellant and the Discom during the course of hearing and the perusal of the documents/papers submitted by both the parties, the following facts have emerged:

- i) The Appellant, Shri Khosmendir Singh Gahunia, has filed the appeal claiming himself to be the complainant/aggrieved party on the basis of a copy of GPA dated 08.03.2001 submitted by him purportedly to have been executed by Shri Kaldeep Singh Brar in his favour for the subject property. However, the said GPA is only attested by the Notary Public and is not registered. Further the same has also not been signed by the two witnesses.
- ii) A copy of the WILL dated 12.03.1996 made by Late Shri Gurnaik Singh, who was the owner of the subject property, in favour of his son namely Shri Kaldeep Singh Brar, who at present has been residing in USA, as per the statement of the Appellant himself has also been submitted.
- iii) He has also submitted a copy of the Aadhar Card as an identity proof for himself but he has not submitted any Authority Letter from the WILL



holder, namely, Shri Kaldeep Singh Brar who could authorize him to represent his case in the electricity matters and the court. It is also noteworthy to mention here that the Registered Consumers (RCs) of both the connections nos.102422515 & 102427398 are Ms Dolly Kapoor & Mr Amar Singh respectively but not Shri Kaldeep Singh Brar or the Appellant himself. Thus, the Appellant is neither the RC nor the Authorized person in the absence of any 'Authority Letter' from the 'WILL holder' or RCs and thus does not qualify/have the *locus standi* to file the complaint as a complainant since he is neither a consumer himself nor an affected party under Regulation 3 (4) of DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018 and Section 2(15) of the Electricity Act, 2003.

- iv) The GPA dated 08.03.2001 submitted by the Appellant is not only quite old but also is not registered as per Indian Law. Further, the contents of the GPA clearly authorize the Appellant only to represent the executant of the GPA viz. Shri Kaldeep Singh Brar in the Court of Law for the legal cases pending against him and to do other lawful acts required for the concerned legal formalities. Thus, the GPA in no way confers the proprietary rights to the Appellant over the property so as to make him eligible to file a case, like, change of name of electricity connections either in his name or in the name of the WILL holder namely Shri Kaldeep Singh Brar.
- v) The WILL dated 12.03.1996 executed by Late Shri Gurnaik Singh, the actual owner of the said property, in favour of his one son Shri Kaldeep Singh Brar submitted by the Appellant, is not mutated/probated as is statutorily required to acquire the proprietary rights over the said property.
- vi) Thus, on the basis of the said WILL and the GPA which lack the minimum legal requirements, the Appellant does not become either a sole authority or the owner of the said premises in which the two connections are also installed.
- vii) It has also been found during the course of hearing that Late Shri Gurnaik Singh has been having three sons namely, Shri Kaldeep Singh Brar (aged 44 years), Shri Baljeet (aged 43 years) and Shri Hardeep (aged 40 years), as per the submission made by the Discom which has also not been denied by the Appellant, whereas the WILL has been executed only in the



name of one son i.e. the eldest one, Shri Kaldeep Singh Brar but the Appellant has not submitted the 'No Objection Certificates' from the other two sons which could have legally been done as the other two sons have not lost their proprietary rights over the said premises/property simply because a WILL has been executed in the favour of one son only which is not mutated/probated as yet and, therefore, no proprietary rights have actually passed over to the WILL holder. The fact about other two sons has also been concealed by the Appellant in his petition.

viii) It is, thus, found that Late Shri Guranik Singh, having three sons, has executed the WILL only in the name of his one son excluding other two sons who are still alive. The circumstance of such exclusion is inconspicuous and remains a matter of concern. Further, the WILL is also not mutated/probated.

ix) The Appellant has also not submitted any 'Authority letter' neither from the RCs nor from the WILL holder i.e. Shri Kaldeep Singh Brar to represent himself as a complainant in this case which is mandatory as per DERC (Supply Code and Performance Standards) Regulations, 2017.

13. In view of the deliberation/discussion as above and the perusal of the documents, the following may thus be concluded:

- a. The Appellant, namely Shri Khosmendir Singh Gahunia, does not qualify as 'complainant' in terms of Regulation 3 (4) of DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018 and Section 2 (15) of the Electricity Act, 2003.
- b. In view of this fact that the Appellant does not fulfill the requirement of being the 'complainant' under the Regulations, entertaining the complaint and its admission by the CGRF is not in order as he does not have the *locus standi* as a 'complainant'.
- c. The documents submitted by the Appellant for change of name of the two electricity connections of the premises of P-18, South Extension – 2, New Delhi – 110049, and the load reduction lack the statutory authentication as firstly the WILL does not confer any sole proprietary rights with regard to the said property/premises to Shri Kaldeep Singh Brar as the same has not been mutated/probated since his two younger brothers are also alive and they have not lost their ownership rights of the said property by virtue



of a non-mutated/non-probated WILL in favour of their elder brother. Secondly, the contents of the GPA submitted by the Appellant clearly state the nature of the activities to be carried out by the Appellant with regard to the property in question which only confers the right to represent the court cases and act on behalf of the executants for other legal matters with regard to the said property. This GPA (General Power of Attorney) falls under the category of a 'Special Power of Attorney' (SPA) which is used for giving or conferring certain specific rights to the holder of the attorney for some specific purpose such as taking possession of property/flat, presentation of documents for registration, appearance before the court of law for any legal purposes etc. whereas the GPA i.e. the 'General Power of Attorney' authorises the holder to do all the acts that may be necessary for the accomplishment and related to the subject matter of a property which includes giving said property on rent, managing bank account, taking possession of the property from the builder etc., executing the sale deed, gift deed to the lease agreement etc. which may include to represent the executant in the departments, like electricity, water and other civic bodies too. Such Power of Attorney should be executed and authenticated by the Registrar or Sub-Registrar.

- d. The claim of the Appellant in his appeal that the Appellant is the landlord by virtue of the 'General Power of Attorney' of the property in question is misrepresentation of the facts as the actual owner of the property Late Shri Gurnaik Singh has executed a WILL in the name of his eldest son, namely, Shri Kaldeep Singh Brar who in turn has executed the said GPA only for the purpose of representing the executant of the GPA in the pending court cases and exercise the rights with regard to the other legal issues/matters. Thus the GPA in no way has conferred any proprietary rights to the Appellant with regard to the said property of which he is claiming to be the landlord. This is a misrepresentation of the fact on the part of the Appellant and thus legally incorrect.
- e. As far as the WILL of Late Shri Gurnaik Singh in favour his son Shri Kaldeep Singh Brar is concerned, the Appellant has also misrepresented the fact in his appeal by stating that Shri Kaldeep Singh Brar is the only legal heir of Late Shri Gurnaik Singh and has concealed the vital fact that other two sons of Late Shri Gurnaik Singh are also alive. Hence, the WILL executed by Late Shri Gurnaik Singh in favour of Shri Kaldeep Singh Brar in no way has divested the proprietary/ownership rights of his other



two sons on account of said WILL which is not mutated/probated. Thus, all the three sons being the legal heirs equally enjoy the proprietary rights over the said property. This fact has also been concealed by the Appellant. Further, neither the 'Authority Letter' from Shri Kaldeep Singh Brar nor the 'NOCs' from the other two sons have been obtained by the Appellant for applying the change of electricity connections and reduction of load with the Discom.

- f. Thus, the Appellant is silent on the very pertinent fact about the legal heirs of the said property in his appeal and also did not give any satisfactory reply when asked during the course of hearing and mostly remained evasive on this issue. Thus both the documents i.e. the WILL and the GPA submitted by the Appellant with the Discom are not requisite documents on which the Discom could act upon. Further, the contention of the Appellant that he has served different notices on different dates to the Discom with regard to his application also becomes infructuous for want of requisite documents as the documents submitted by the Appellant have not been fulfilling the criteria of valid/requisite documents in terms of the Regulation 17 of DERC (Supply Code and Performance Standards) Regulations, 2017.
- g. It is also found that Late Shri Gurnaik Singh, the owner of the property, was having three sons namely Shri Kaldeep Singh Brar, Shri Baljeet and Shri Hardeep. Not only this fact has been concealed by the Appellant in his appeal and instead he has stated that Shri Kaldeep Singh Brar is the only legal heir and at the same time the Appellant has been showing Shri Kaldeep Singh Brar as the legal heir of the property in question whereas on the other hand he himself has also been claiming to be the landlord of the said property simply on the basis of the GPA
- h. Further, the validity of both the documents is certainly not conclusively ascertainable as this is beyond the purview of this court to carry out the investigation about the same and adjudicate upon authenticity of the documents which is purely the subject matter of the appropriate civil court. As the present appeal has raised mis and vexed question of and 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 same cannot be done in the summary proceedings in this appeal.



i. It may, thus, rightly be concluded that the Appellant has failed to establish his *locus standi* as a complainant as well as to prove his authority and capacity to represent the case for change of name of electricity connections installed in the premises bearing P-18, South Extension – 2, New Delhi – 10049, and reduction of the load thereof. Further in view of these facts, the claim of the Appellant for the compensation also stands vitiated and thus nullified.

14. In view of the facts and circumstances viz-a-viz the scrutiny of the available documents and against the background of the above/aforesaid analysis, it is found that there is no substance in the appeal of the Appellant. Therefore, it is prudently decided that there is no need to interfere with the verdict of the CGRF. This Appeal is disposed of accordingly.


(S.C.Vashishta)
15/3/2021

Electricity Ombudsman
15.03.2021