

Office of Electricity Ombudsman

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

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2009/314

Appeal against Order dated 31.01.2009 passed by CGRF–BYPL in case CG. No.212/11/08.

In the matter of:

Shri Yudhvair Singh - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant The Appellant was present alongwith
Shri Ravi D. Sharma. Advocate

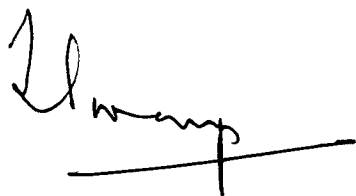
Respondent Shri Pradeep Lohani, DGM,
Shri Rajeev Ranjan, Assistant Manager (Legal),
Ms. Sapna Rathore, Assistant Manager, CGRF and
Shri P. Mathur, Legal Retainer, attended on behalf of the
BYPL

Dates of Hearing: 10.06.2009, 01.07.2009

Date of Order : 06.07.2009

ORDER NO. OMBUDSMAN/2009/314

1. The Appellant has filed this appeal against the order dated 30.01.2009 passed by the CGRF-BYPL in the complaint no. 212/11/08 praying that the CGRF order be set aside, and the change made in the name of the registered consumer by the Respondent from the bill month September 2008 onwards, be rolled back.

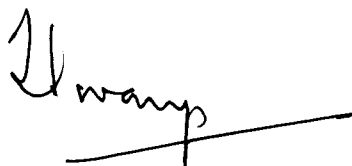


2. The background of the case as per contents of appeal, CGRF's order and the submission made reply filed by both the parties is as under:

(i) The Appellant states that he is in possession of property no. 219, Pratap Khan, Vishwakarma Nagar, Shahdra, Delhi – 110 095 and the user of connection no. 121011160137, registered in the name of Shri Suraj Nath Tiwari. The grievance of the Appellant is that the Respondent Company had illegally changed the name of the registered consumer of the connection from Shri Suraj Nath Tiwari to Shri Adarsh Kumar Malhotra in September 2008. The Appellant has stated that he is in possession of the property in question for the last 20 years and has been making the payment of all electricity bills issued in the name of Shri Suraj Nath Tiwari.

(ii) BYPL stated before the CGRF that Shri Adarsh Kumar Malhotra is the present owner of the property and had applied for the change of name of the connection from Shri Suraj Nath Tiwari to Shri Adarsh Kumar Malhotra. Shri Malhotra had produced valid documents as proof of ownership i.e. the agreement to sell dated 30.07.2008, E-stamp dated 28.07.2008, and the MCD Mutation Certificate dated 10.10.2008. Based on these documents the name of the registered owner of the connection was changed from Shri Suraj Nath Tiwari to Shri Adarsh Kumar Malhotra in the September 2008 bill.

(iii) The Appellant refuted the submissions of the BYPL and stated that Shri Adarsh Kumar Malhotra had concealed information

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regarding possession of the property while applying for change of name on 26.08.2008. It was also stated that Civil Suit No. 249/08 had been filed by Shri Malhotra against the Appellant's family and a suit for possession is pending before the court of ADJ.

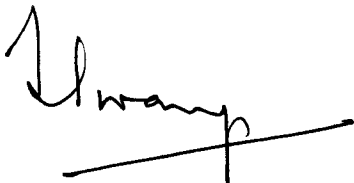
- (iv) The CGRF in its order accepted the submissions of the BYPL and directed that 'status quo' be maintained in respect of the name of the registered consumer i.e. Shri Adarsh Kumar Malhotra, till the matter of possession of the property is decided by the court of ADJ.

Not satisfied with the orders of CGRF-BYPL, the Appellant has filed this appeal.

3. After scrutiny of the contents of the appeal, the CGRF's order and the submission made by both the parties, the case was fixed for hearing on 21.05.2009, which was re-scheduled for 10.06.2009 on the request of the Appellant.

On 10.06.2009, the Appellant himself was present alongwith his advocate Shri Ravi D. Sharma. The Respondent was present through Shri Pradeep Lohani, DGM – BYPL, Ms. Sapna Rathore, A.M. – CGRF and Shri Pawan Mahur, Legal Retainer, BYPL.

The Appellant's advocate stated that he wishes to file the "Agreement to Sell" executed by his client who is in possession of the property for the last 20 years. This was taken on record. Both the parties were heard. Appellant's main plea is that BYPL has



transferred the connection on the basis of false documents in the name of Shri Adarsh Kumar Malhotra, who had purchased the property from Shri Shashi Bhushan. The Respondent stated that they had transferred the connection on production of valid documents produced by Shri Malhotra. It was decided to send notice to Shri Adarsh Kumar Malhotra and Shri Shashi Bhushan to be present at the next date of hearing i.e. on 01.07.2009 being the earlier owner, and subsequent owner, of the property.

4. On 01.07.2009, the Appellant was present alongwith his advocate. The Respondent was present through Shri Pradeep Lohani, DGM-BYPL, Shri Rajeev Ranjan, A.M. (Legal), and Ms. Sapna Rathore, A.M. – CGRF.

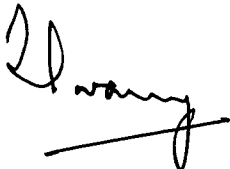
Both the parties argued their case at length. Shri Malhotra and Shri Shashi Bhushan were also present and argued that the connection was correctly transferred by BSES on the basis of authentic documents i.e. Sale / Purchase documents, including mutation certificate, issued by the MCD. The papers filed by Shri Adarsh Kumar Malhotra were taken on record. Shri Malhotra also stated that the matter regarding possession of the property is pending before the Hon'ble Civil Court as the Appellant is in illegal occupation of the property. Shri Shashi Bhushan stated that the possession of the property was earlier given to the father of the Appellant without any formal arrangement. Later on an "Agreement to Sell" was executed which was not completed as full payment was not made by the Appellant's father. The Appellant's counsel stated that they have been in possession for 20 years and there was 'preponderance of



probability' in his client's favour. However Appellant did not dispute that Shri Shashi Bhushan was the owner of the property and he did not have any tenancy agreement to stay in the property.

5. Observations:

- (i) Based on the arguments of both the parties and documents submitted by them, it is observed that:
 - (a) As per the Appellant's version he is in possession of the property for the last 20 years and has been making the payment of electricity bills issued in the name of the original allottee and registered consumer, Shri Suraj Nath Tiwari, who had sold the premises to the wife of Shri Shashi Bhushan, who later on expired in an accident.
 - (b) The Appellant could not explain why if he was rightful owner of the property, he failed to get the connection transferred in his name in the last 20 years.
 - (c) The Appellant could not produce any valid documents indicating that he had purchased or rented the premises from Shri Shashi Bhushan. The 'Agreement to Sell' dated 27.10.1988 indicates that Shri Harpal Singh, father of the Appellant, had made only part payment and the agreement was never completed and is also unregistered.
 - (d) The electricity connection is registered in the name of Shri Suraj Nath Tiwari, who was the original allottee, and the connection was transferred in the name of Shri Adarsh Kumar Malhotra in



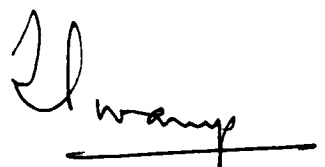
September 2008 on the basis of a registered GPA, 'Agreement to Sell' etc. The property has since been mutated in the name of Shri Adarsh Kumar Malhotra. Objection if any for transfer of the connection should have come from the registered consumer Shri Suraj Nath Tiwari and not from the Appellant, in whose name the connection never existed.

6. Conclusion

- (i) Since the issue of possession is pending in the Civil Court, I do not find sufficient reason for interfering with the orders of the CGRF. Since BYPL has already transferred the connection in the name of Shri Adarsh Kumar Malhotra, as per prescribed procedure 'status quo' be maintained till the matter is decided by the Hon'ble Civil Court.

The Appellant's appeal is accordingly dismissed.

6th July 2009


(SUMAN SWARUP)
OMBUDSMAN