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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/2010/342

Appeal against Order dated 31.08.2008 passed by CGRF-BRPL in case no. C.G.No.187/2009.

In the matter of:

Shri Shankar Dass Falwaria

- Appellant

Versus

M/s BSES Rajdhani Power Ltd.

- Respondent

Present:-

Appellant

Appellant Shri Shankar Dass Falwaria was present in person

Shri Mohan Lal & Smt. Jaishree Devi and their children
Shri Ashish & Km. Nisha were present in person

Respondent

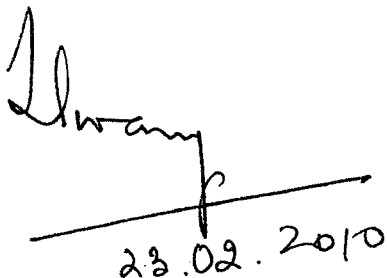
Shri B.N. Jha, DGM,
attended on behalf of BRPL

Date of Hearing : 18.11.09, 18.12.09, 15.01.10

Date of Order : 23.02.2010

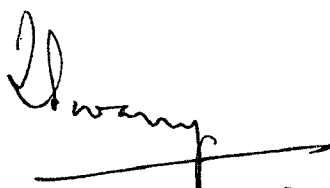
ORDER NO. OMBUDSMAN/2010/342

- 1.0 The Appellant, Shri Shankar Dass Falwaria, has filed this appeal against the CGRF-BRPL's order dated 30.08.2009 requesting for setting aside the aforesaid order.


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2.0 The brief facts of the case are as under:

- i) The Appellant has stated that he is the legal owner of the property bearing No. 85/13, Ashok Nagar, Tilak Nagar, New Delhi – 110018, and had obtained in his name electricity connections vide K. Nos. 2610H3020822, 2610H3020341, 2610H3020342, 2610H3020343 at the above premises.
- ii) The Appellant is not residing in the premises. However, his real brother, Shri Mohan Lal and his wife Smt. Jaishree Devi and other tenants are residing at the premises and using the electricity from the connections installed in his name.
- iii) The Appellant had requested the Respondent for disconnection of the electricity connections on the apprehension that dishonest abstraction (DAE)/theft of electricity, may be carried out by Shri Mohan Lal and his wife Smt. Jaishree Devi.
- iv) The Respondent did not disconnect the electricity connections because Smt. Jaishree Devi, wife of Shri Mohan Lal, produced a registered Sale-Deed dated 20.04.2004 of the property showing that the premises was transferred in her name. It was also revealed that a family dispute between the

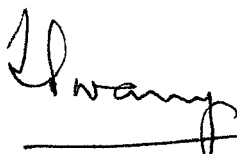

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two brothers was pending in the Tis Hazari Court, Delhi vide Case No.493/2004, about the ownership of the property.

- 2.1 The Appellant filed a complaint before the CGRF-BRPL requesting for disconnection of the aforesaid four electricity connections in his name on the grounds that he apprehends DAE/theft of electricity by Shri Mohan Lal and his wife Smt. Jaishree Devi, which may lead to his involvement in such cases of DAE/theft.

Shri Mohan Lal and his wife Smt. Jaishree Devi appeared before the CGRF and stated that they were the legal owners of the property and the Appellant fraudulently got a gift-deed executed dated 13.08.2004 signed by Smt. Bheki Devi, their mother, who was the previous owner of the property. Shri Mohan Lal further stated that he had been regularly paying all the bills in respect of the aforesaid electricity connections, and, therefore, the apprehension of DAE/theft of electricity was baseless. As such, there was no justification for disconnection of the electricity connections.

- 2.2 The CGRF-BRPL in its order dated 30.08.2009 observed that the dispute about the ownership of property was before the civil court. As such, it would not be proper to direct disconnection of the electricity connections, till the dispute regarding ownership was settled by the court. Further, Smt. Jaishree Devi, wife of Shri


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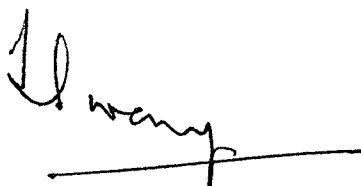
Mohan Lal, had already undertaken to deposit the electricity bills regularly, even if the case is decided against her by the civil court. The CGRF-BRPL, therefore, decided that disconnection of electricity connections could not be ordered only on the basis of an apprehension by the Appellant regarding DAE/theft of electricity.

The Appellant, not satisfied with the order of the CGRF-BRPL, has filed this appeal on 30.09.2009.

- 3.0 After perusal of the records and after obtaining the required clarifications from the parties the first hearing in the case was fixed on 18.11.2009

The Appellant was present, in person. The Respondent was represented by Shri B.N. Jha, DGM.

The Appellant stated that Smt. Bhiki Devi, his mother, was the previous owner of the property, and had executed a 'General Power of Attorney' on 17.10.2003 in favour of his brother Sh. Mohan Lal, who further sold the property to his wife Smt. Jaishree Devi vide sale-deed dated 12.04.2004. However, Smt. Bhiki Devi cancelled the General Power of Attorney in November 2003. Subsequently, Smt. Bhiki Devi also executed a gift-deed dated 13.08.2004 in his favour. On the basis of the gift-deed he got the existing four electricity connections transferred in his name in

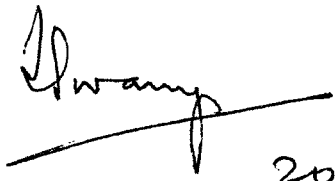

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September/October, 2004. He also submitted that case No. 493/2004 was pending between the two brothers in the Civil court at Tis Hazari, Delhi, regarding the ownership of the property. He stated that his interest, being the registered consumer, be protected as he was not sure that the present occupiers of the premises and users of electricity would pay the bills regularly, and there would be no DAE/theft of electricity.

The Respondent was asked to produce the K.No. files of all the four connections and their statements of account, and to prepare a draft undertaking which could be executed by Shri Mohan Lal and his wife Smt. Jaishree Devi, regarding proper use of the connections. It was also decided to issue a notice to Shri Mohan Lal and his wife Smt. Jaishree Devi, who were the affected parties.

4.0 At the next hearing on 18.12.2009, the Appellant was present, in person. Shri Mohan Lal and Smt. Jaishree Devi were represented through their children Shri Ashish & Kumari Nisha. The Respondent was represented through Shri B.N.Jha, DGM.

The Respondent produced the K. No. files for the four connections and requested for time for filing the statements of account. He also submitted a draft undertaking and a copy of the same was handed over to Shri Ashish Kumar and Kumari Nisha representing Shri

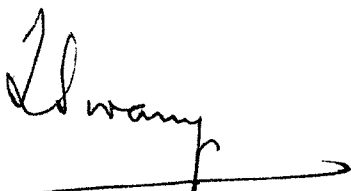

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Mohan Lal and Smt. Jaishree Devi. The next date of hearing was fixed on 15.01.2010.

- 5.0 On the next hearing on 15.01.2010, the Appellant was present, in person, Shri Mohan Lal, his wife Smt. Jaishree Devi and their son Ashish were also present. The Respondent was represented through Shri B.N.Jha, DGM.

The parties argued their case at length. The Appellant reiterated that the connections in his name be disconnected. Alternatively, Shri Mohan Lal and Smt Jaishree Devi should be liable for payment of any dues, and for any misuse / theft etc. of electricity from the connections, as they were occupying the premises. Shri Mohan Lal and Smt. Jaishree Devi confirmed that they were in occupation of the premises and using the connections and were regularly paying the bills.

The Respondent stated that the Appellant was the registered consumer of the four K.Nos., but the Appellant's & the Company's interests would be safeguarded of Smt. Jaishree Devi & Shri Mohan Lal, the actual users execute an agreement, that they will pay all the dues and will be liable for any misuse of the electricity connections, pending resolution of the dispute regarding ownership of the premises.

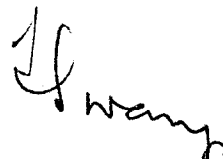


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- 5.1 Considering the facts and circumstances of the case, it was decided that to protect the commercial interest of the Respondent, Shri Mohan Lal and Smt. Jaishree Devi would execute a declaration and undertaking accepting the liability to pay all dues and to follow all rules regulations regarding proper use of the electricity connections, and hand over the same to the Respondent within 15 days along with a copy to this office by 30.01.2010.
- 5.2 The duly signed and executed copy of the declaration and undertaking by Shri Mohan Lal and Smt. Jaishree Devi, accepted by the Respondent, was received in this office on 04.02.2010 and taken on record. This will adequately safeguard the interests of the Respondent as well as the registered consumer. As such, there is no justification for disconnection of the electricity connections till the disposal of the property dispute by the Civil court Tis Hazari, Delhi, or to set aside this order of the CGRF.

The appeal is accordingly disposed of.

23rd February 2010.


(SUMAN SWARUP)
OMBUDSMAN