

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/2010/382

Appeal against Order dated 25.05.2010 passed by CGRF–NDPL in CG.No. 1994/01/09/KPM.

In the matter of:

Shri Hans Raj Miglani & others - Appellants

Versus

M/s North Delhi Power Ltd. - Respondent No.1
Shri Bhim Sen Khurana - Respondent No.2

Present:-

Appellant The Appellant is present in person alongwith his advocate Shri Gulshan Kumar Sharma

Respondent Shri K.L. Bhayana, Adviser
Shri B.L. Gupta, Manager and
Shri Vivek, Manager (Legal) attended on behalf of the NDPL

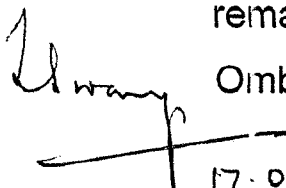
Respondent No.2 was present in person along with
Shri Akhilesh Kumar Pandey, Advocate

Dates of Hearing : 20.10.2010, 30.11.2010

Date of Order : 17.01.2011

ORDER NO. OMBUDSMAN/2011/3/382

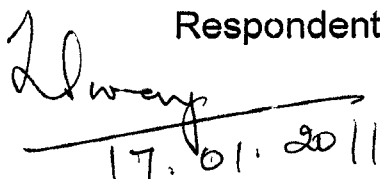
1.0 Shri Hans Raj Miglani has filed the present appeal on 25th June 2010 against the order of CGRF dated 25.05.2010 in complaint No. 1994/01/09/KPM regarding transfer of three electricity connections K. Nos. 32200738725 , 32200735043 and 32200738731. The Hon'ble High Court of Delhi vide its order No. 10691/2009 dated 12.11.2009 remanded the matter back to the CGRF and the Electricity Ombudsman for hearing the matter afresh and for fresh adjudication


17.01.2011

of the dispute after impleading the Respondent No.2, Shri Bhim Sen Khurana, as a party. The CGRF and Electricity Ombudsman have accordingly heard the matter afresh after impleading Shri Bhim Sen Khurana as a party.

1.1 The brief background of the case as per the records and averments of the parties is as under:

- i) Shri Hansraj Miglani and Shri Bhim Sen Khurana claim to be co-owners of the property situated at 31, Community Centre, Ashok Vihar, Delhi-110052, purchased by Smt. Lajwanti Khurana, from the DDA in auction on 12.10.1969. Shri Hans Raj Miglani is also the real younger brother of Smt. Lajwanti Khurana, mother of Shri Bhim Sen Khurana. A case regarding title of the property at 31, Community Centre, Ashok Vihar, is pending before the Hon'ble Delhi High Court in Suit No. CS(OS) No. 862/2003.
- ii) It is stated that 27 electricity connections were sanctioned for the premises from time to time. Out of these, three are under dispute i.e. K. Nos. 32200738725, 32200738731, and 32200735043, in the present appeal.
- iii) According to the Appellants, at the request of Respondent No. 2, Shri Bhim Sen Khurana, Respondent No.1, viz NDPL without their 'No Objection Certificate' (NOC), transferred the aforesaid three connections registered in the names of Shri Hans Raj Miglani and his wife Smt. Urmil Miglani, to the name of Respondent No.2, Shri Bhim Sen Khurana.


17.01.2011

2.0 The Appellants filed a complaint before the CGRF against the illegal transfer of the aforesaid three electricity connections in the name of Shri Bhim Sen Khurana.

2.1 The CGRF, after considering the facts and after hearing the arguments of Shri Hans Raj Miglani and the Respondent No.1, vide its order CG No. 1994/01/09/KPM dated 23.03.2009, directed that status-quo be maintained in respect of transfer of the aforesaid two connections (Nos. 32200735043 and 32200738725) because the dispute about the title and partition of the property was pending before the Hon'ble High Court of Delhi. Shri Bhim Sen Khurana was not impleaded as a party at this stage.

3.0 The Appellants, not satisfied with the aforesaid order of the CGRF dated 23.03.2009 filed an appeal before the Electricity Ombudsman. The appeal was heard by the Ombudsman but Shri Bhim Sen Khurana was not a party in the matter.

3.1 The Appellants stated that the aforesaid three connections were wrongly transferred in the name of Shri Bhim Sen Khurana and their requests for pre-paid meters were not accepted by the Respondent No. 1, NDPL.

3.2 The Appellants during the hearing also stated that they would withdraw the three separate appeals filed earlier against the CGRF's orders dated 12.12.2009 in case nos. 1905/10/08/KPM, 1906/10/08/KPM and 1994/10/08/KPM

20 Wang
17.01.2011

regarding sanction of three new pre-paid connections, if their appeal against the CGRF order no.1994/01/09/KPM dated 23.03.2009 could be considered on merit and the three existing connections illegally transferred were restored in their names. In this regard Appellants also submitted an undertaking dated 15.05.2009. It was, therefore, decided to first take up the appeal against the CGRF's order dated 23.03.2009 in the case CG No. 1994/01/09/KPM on merit.

3.3 The Appellants also stated that on their request connection K. No. 32200738731 was retransferred on 14.02.2008 in the name of Smt. Urmil Miglani. It was, however, requested that K. Nos.32200738725 and 32200735043 be also transferred in the names of the Appellants as these were continuing in the name of Shri Bhim Sen Khurana.

4.0 The Electricity Ombudsman after careful consideration of the records and the averments of the parties vide order dated 29.05.2009 decided that:-

- i) Connection K. No. 32200738731, was wrongly transferred in the name of Shri Bhim Sen Khurana by the Respondent No.1 NDPL and had already been restored in the name of Smt. Urmil Miglani, wife of the Appellant. The bills for dues pertaining to the period, when the connection remained in the name of the Shri Bhim Sen Khurana, would be paid by him and bills for the remaining period are to be paid by the consumer Smt. Urmil Miglani. The request for a prepaid connection made by the Appellants is to be decided as per the DERC's Regulations.

21 wamp
17.01.2011

- ii) It was held that connection no. K. No. 32200738725, was also wrongly transferred in the name of the Shri Bhim Sen Khurana, and was to be restored in the name of the original registered consumer Shri Hans Raj Miglani. Prior to re-transfer, the dues would be paid by Shri Bhim Sen Khurana, for the period when the connection remained in his name.
- iii) Similarly connection no. K. No. 32200735043, was found to be wrongly transferred in the name of the Shri Bhim Sen Khurana and was restored in the name of the original consumer Shri Hans Raj Miglani. For the period the connection remained in the name of Shri Bhim Sen Khurana, the dues would be paid by Shri Bhim Sen Khurana.

5.0 Shri Bhim Sen Khurana, filed a writ petition in the Hon'ble High Court of Delhi against the aforesaid orders of the CGRF and the Ombudsman on the grounds that he was not impleaded as a party. The Hon'ble High Court of Delhi, vide its order dated 12.11.2009 remanded the matter back to the CGRF and Electricity Ombudsman for fresh adjudication of the dispute regarding transfer of the two electricity connections existing in the name of Shri Hans Raj Miglani , after impleading Shri Bhim Sen Khurana, as a party.

6.0 The CGRF, in compliance of the directions of the Hon'ble High Court of Delhi heard the matter afresh after impleading Shri Bhim Sen Khurana as Respondent No.2.

6.1 The CGRF after considering the records and hearing the parties directed in its order dated 25.05.2010 that: "The agreement based on earlier family settlement showing the division of the

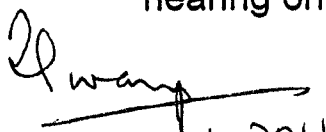
22 Wang
17.10.2011

building No. 31, Community Centre, Ashok Vihar Ph. 1, Delhi-52 between the parties is also under challenge before the Hon'ble High Court of Delhi by Mrs. Lajwanti, petitioner in Suit No. CS(OS)862/2006. Therefore, the Forum decides that a status quo may be maintained as on date of filing the original complaint before the Forum i.e. 24.12.2008 vide CG No. 1994/01/09/KPM and till the final determination of title by the Hon'ble High Court of Delhi in suit No. CS(OS)862/03 Smt. Lajwanti Khurana vs. Hansraj Miglani and others."

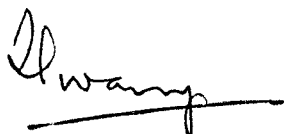
7.0 The Appellant Shri Hans Raj Miglani, has filed the present appeal dated 25.06.2010 before the Ombudsman against the aforesaid order of the CGRF dated 25.05.2010. After perusal of the records filed by the parties, the first hearing in the case was fixed on 20.10.2010.

7.1 On 20.10.2010 the Appellant Shri Hans Raj Miglani, was present in person alongwith his advocate Shri Gulshan Kumar Sharma. The Respondent No. 1 NDPL was represented by Shri K. L. Bhayana, (Advisor), Shri Vivek, (Manager Legal) and Shri B. L. Gupta, (Manager). The Respondent No. 2, Shri Bhim Sen Khurana, was present in person.

7.2 The Respondent No.2 Shri Bhim Sen Khurana sought time for filing his reply to the appeal. Time was granted and Respondent No.2 was asked to file his reply and the list of other interested parties if any, by 28th October 2010. The matter was fixed for hearing on 30.11.2010.



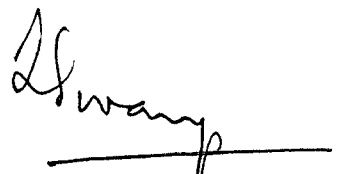
- 7.3 On 30.11.2010 the Appellant was present in person along with his advocate Shri Gulshan Kumar who joined late during the hearing. The Respondent No. 1, NDPL, was represented by Shri K. L. Bhayana (Advisor), Shri Vivek (Manager Legal) and Shri B. L. Gupta (Manager). The Respondent No. 2, Shri Bhim Sen Khurana, was present in person along with his advocate Shri Akhilesh Kumar Pandey.
- 7.4 The Appellant, Shri Hans Raj Miglani reiterated his prayer for retransfer of the aforesaid three connections in the names of the original registered consumers. Respondent No.1, NDPL, admitted that the same were wrongly transferred without verifying the NOCs submitted by the Respondent No.2, while applying for transfer.
- 7.5 The Respondent No. 2, Shri Bhim Sen Khurana, accepted that the three electricity connections in dispute were originally registered in the name of the Appellant Shri Hans Raj Miglani and his wife and remained in their name till 2008, but were subsequently transferred to his name by the Respondent No. 1, NDPL. He also clarified that it was a matter of record that from the very beginning he and his tenants were using these connections and paying the electricity bills, despite the fact that Shri Hans Raj Miglani and Smt. Urmil Miglani were the registered consumers.


17.01.2011

8.0 In my view it would be logical and appropriate to restore the aforesaid three electricity connections in the names of the persons who had been originally sanctioned these connections and were the registered consumers i.e. Shri Hans Raj Miglani and Smt. Urmil Miglani, since the title to the property is disputed before the Hon'ble High Court of Delhi. The Respondent No. 1, NDPL is, therefore directed to restore the three connections K. Nos.32200738725, 32200738731 and 32200735043 in the names of the original registered consumers. The NDPL is also restrained from sanction of any new connection, transfer of any existing connection, or enhancement of load of the existing connections in respect of the property, until the suit pending between the Appellants, Respondent No. 2 and their family members, regarding title to the property has been decided by the Hon'ble High Court of Delhi.

The appeal is accordingly disposed of.

17th January 2011


(SUMAN SWARUP)
OMBUDSMAN