

OFFICE OF 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-cum-Fax No.: 011-26144979)

Appeal No. 41/2023

(Against the CGRF- BYPL order dated 06.09.2023, Complaint No. 264/2023)

IN THE MATTER OF

Shri Vikas Kumar Jain

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Vikas Kumar Jain, in person.

Respondent: Ms. Rushda Khan, Area Manager, Karawal Nagar,
Ms. Shweta Choudhary, Legal Retainer and Ms. Ritu Gupta,
Advocate, on behalf of BRPL

Date of Hearing: 22.12.2023

Date of Order: 22.12.2023

ORDER

1. Appeal No. 41/2023 dated 04.10.2023 has been filed by Shri Vikas Kumar Jain, R/o B-1757/17, Shastri Nagar, Delhi – 110052, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 06.09.2023.

2. The instant case is that the Appellant, Shri Vikas Kumar Jain, purchased a constructed property measuring 30 Sq. Yds. bearing No. 21/2, Gali No. 2, Bhagat Vihar, Karawal Nagar, Delhi, out of Khasra No. 3/2, 8/1, 12/2, from Shri Anil Pal on GPA dated 10.03.2015 along with a complete chain of property documents through General Power Attorney, Agreement to Sell for Rs. 24.50 lakhs and Possession Letter. At a later stage, the Appellant came to know that Shri Anil Pal was not the owner of the property, and based on fabricated documents, he sold the property to him. Against which he filed an FIR as well as a civil suit before the Additional District

Judge, Karkardooma Courts, vide No. 565/2016. A decree for permanent injunction was passed by the Additional District Judge, Karkardooma Courts, on 23.12.2020, in his favour whereby Shri Anil Pal and Smt. Sarita (relatives of Shri Vijay Pal Singh) were restrained from creating any third-party interest in the suit property bearing No. 21/2, Gali No. 2, Bhagat Vihar, in any manner whatsoever till the entire payment of the decree amount along with interest is made by Shri Anil Pal to the plaintiff (Vikas Kumar Jain). Later, the Appellant came to know that they had already installed an electricity connection (CA No. 351345747) in the name of Shri Vijay Pal Singh, husband of Smt. Sarita, and were illegally working on the premises.

3. In this regard, the Appellant sent letters on 27.02.2023 and 13.05.2023 to the Respondent for disconnection of the electricity connection (CA No. 351345747) unauthorizedly installed at the premises, in question, in the name of Shri Vijay Pal Singh, whereas he is the owner of the above-cited premises. When the Respondent did not take any action, the Appellant approached the Forum and prayed to take strict action against Shri Anil Pal and Smt. Sarita (w/o Shri Vijay Pal Singh) and either to change the connection in his name or to disconnect the electricity connection. The Appellant also placed all the relevant documents before the Forum. On the contrary, the Discom submitted vide communication dated 14.07.2023 that as per their record, the consumer is Shri Vijay Pal Singh, and the address of this connection is House No. 21-A and not 21/2, as alleged by the complainant. Moreover, in the aforesaid decree, Shri Anil Pal (Defendant 1 before the ADJ- Karkardooma) had been restrained from creating third-party interests therein until the money decree is satisfied. There is no order against Defendant No. 2 – Smt. Sarita, who is the wife of a registered consumer, namely Shri Vijay Pal Singh. The Appellant also claimed that the connection was granted on the basis of fake documents, the Discom stated that it needs adjudication by a proper court and cannot be decided by the Forum. The Discom further confirmed that as per their Inspection Report, both properties are different properties. Discom further contended that the complainant had no locus standi to file the complaint.

4. The CGRF-BYPL, in its order dated 06.09.2023 stated that on collective perusal of the relevant documents it is apparent that one Shri Anil Pal, without being the owner, sold the property bearing No. 21/2, Gali No. 2, Bhagat Vihar, Karawal Nagar, Delhi – 110094, fraudulently by executing GPA in the complainant's (Appellant before the Ombudsman) have coupled with Agreement to Sell property for Rs.24.50 lakhs and handed over possession of the property. Later on, an FIR for cheating, etc. was lodged, and the complainant got a decree of permanent injunction and recovery of the sale price. The Forum also stated that on the other hand, as per the Discom's Inspection Report, the premises was locked and a meter was found at BYPL's pole. Bills reveal that the said connection was in the name of Vijay Pal



Singh, as alleged by the complainant, but the address is not the same, as given in the GPA set in the favour of the complainant. The Forum further considered the meaning of the term "complainant" and Section 2(15) of the DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018 and the Electricity Act, 2003, respectively. Furthermore, the Forum stated that the complainant failed to fulfill the conditions required to be a "complainant" as per DERC Regulations, hence, there is no need to decide the issues, as the complainant has no *locus standi* and dismissed the complaint as not maintainable.

5. Not satisfied with the order dated 06.09.2023 passed by the Forum, the Appellant preferred this appeal, reiterating the same as submitted before the Forum. The Appellant also alleged the fabrication of documents by mentioning two different addresses, 12 and 21A, in the GPA. In this regard, the Appellant further submitted that the case of 'contempt of court order dated 23.12.2020' is pending before the court and requested the removal of the electricity connection (CA No. 3513345747) installed at the subject premises and to direct the Discom not to release any connection until the ADJ, Karkardooma, decides the case.

The Appellant also submitted a letter No. AE(B)-I/SH/N/2023/D/172 dated 05.06.2023, issued by Assistant Engineer (Building), Shahdra (North) Zone, in respect of action against the offender U/s 344 (2) of the DMC – unauthorized construction, in his support.

6. The respondent, in their written submission to the appeal, reiterated the submission as before the Forum. In addition, the Discom submitted that to ascertain the status of properties having different addresses, the site was visited by the Field Executive and found that the disputed premises and the premises where a temporary meter was installed are physically the same. As such, the application of Shri Vijay Pal Singh for the grant of a new connection was rejected on the basis of the dispute raised by the Appellant. Subsequently, Shri Vijay Pal filed a civil suit (No. 384/2023) against the Discom, which is pending at Karkardooma Court. Since the Appellant is not a consumer of the Discom, he has no *locus standi* to file the present appeal.

7. The appeal was admitted and taken up for hearing on 18.12.2023. During the hearing, the Appellant was present, in person, and the Respondent was represented by its authorized representatives. An opportunity was given to both to plead their respective cases at length.



8. During the hearing, the Appellant restated his submissions as in the appeal. Appellant emphasized that till date he has not received the payment of Rs.24.5 lakhs along with interest. Therefore, no third party interest can be created in terms of the decree passed by Hon'ble Court passed in 2020. Appellant also asserted that he was dispossessed by the family of Vijay Pal Singh.

9. In rebuttal, Respondent reiterated its justification as in written submission on the Appellant's contentions with regard to grant of connection to Shri Vijay Pal Singh. Counsel for Respondent could not give a satisfactory reply in respect of (a) dispute in the property, (b) third party interest could not be created in terms of court decree and (c) fabrication of the documents and to get the temporary connection. The Ombudsman noted that the submissions in respect of the fabrication in record by mention of different addresses i.e. 12A, 21 & 21 A in respect of the same property have been made for the first time by the Discom before the Civil Court and the Ombudsman which was in total contradiction to the stand taken before the CGRF. It was also pointed out that the Complainant before the CGRF had in its rejoinder reply dated 17.07.2023 mentioned in para 13 about complaints to MCD on 20.09.2018 & 28.02.2023 which became the basis for action in respect of unauthorized construction. As a consequence the MCD had written a communication dated 05.06.2023 to the SHO of the area, seeking action by the police for stopping such construction.

10. This court has heard both the parties, perused the appeal and written statement respectively. The Court has also gone through the relevant provisions of the Electricity Act, 2003 and DERC's Regulations, 2018 as detailed below:

(a) Section 2 (15) of Electricity Act, 2003 defines a consumer as under:

"consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government of such other person, as the case may be".


(b) Regulation 3(4) of the DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018, defines a "complainant" means:-



- i. a consumer as defined under clause (15) of Section 2 of the Act;
or
- ii. an applicant for a new electricity connection; or
- iii. in case of death of a consumer, his legal heirs) or authorized representatives; or
- iv. any other person claiming through or authorized by or acting as agent for the consumer and affected by the services or distribution business carried out by the distribution licensee.

11. Having taken all factors, written submissions and arguments into consideration, I am of considered opinion that since the Appellant is neither a consumer nor a complainant, as is required under the law, he has no locus standi to approach the office of Ombudsman raising the grievance of disconnection. However, since the Discom has conceded that the connection was obtained on the basis of forged/false documents and initiated action for disconnection in April, 2023. A view would require to be taken for further necessary action by the Discom on the same lines. Discom may also take necessary action so far as temporary connection is concerned, in view of Parivartan case. Further, a vigilance enquiry be ordered to ascertain the background for release of the connection and to fix responsibility. The enquiry may also bring out the circumstances under which different outcomes of field inspection has been shared with CGRF, Ombudsman and Civil Court. In this CGRF, the Respondent has shown the properties to be different under different Khasra number, whereas, the Respondent showed the properties to be the same in the court of Ombudsman/Civil Court.

The appeal is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
22.12.2023