

OFFICE OF THE 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/2011/444

Appeal against Order dated 26.09.2011 passed by the CGRF–NDPL in CG.No. 3597/07/11/MDT

In the matter of:

Smt. Kiran Katyal

Appellant

Versus

M/s North Delhi Power Ltd.
Shri Zahoor Ahmed

Respondent No. – 1
Respondent No. – 2

Present:-

Appellant

The Appellant was represented by Shri S.B.Goel, Advocate. Her sons Shri Sonu Katyal and Shri Rajesh Katyal were also present.

Respondent

Shri K.L. Bhayana, Adviser, and
Shri Vivek, Sr. Manager, attended on behalf of the
Respondent No. – 1
Ms. Anju Lal, Advocate, is appeared on behalf of Shri
Zahoor Ahmed – Respondent No. 2

Date of Hearing : 13.12.2011 & 20.12.2011

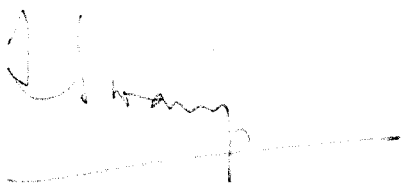
Date of Order : 23.12.2011

ORDER NO. OMBUDSMAN/2011/444

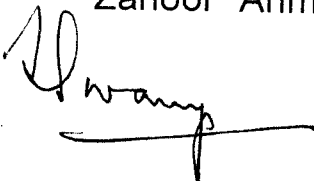
1.0 The Appellant, Smt. Kiran Katyal, w/o Late Shri Om Prakash Katyal, r/o Gh-4/45, Paschim Vihar, New Delhi 110063, has filed this appeal against the order of the CGRF-NDPL in C.G. No.3597/07/11/MDT dated 26.09.2011, requesting for grant of a new electricity connection at her shop No. 7, M/s Vinni Glass

House, Hans Cinema Compound, G.T. Karnal Road, Azadpur, Delhi.

- 2.0 The brief facts of the case as per the records and averments of the parties are as under:
- 2.1 The Appellant, Smt. Kiran Katyal, and her two sons namely Shri Rajesh Katyal and Shri Sonu Katyal, are running M/s Vinni Glass House at shop No.7 Hans Cinema Compound, G. T. Karnal Road, Azadpur, Delhi, for the last many years.
- 2.2 The Respondent No.2, Shri Zahoor Ahmed, owner of Hans Cinema (formerly known as M/s Vijay Cinema) has filed a case before the Hon'ble High Court of Delhi at New Delhi vide Suit No.C.S. (OS) No.2536/2010 and I.A. No.17011 (under Order 39 Rule 1 & 2 CPC) dated 15.12.2010 for possession of the premises, i.e. shop No.7. He however disconnected the electricity supply of the aforesaid shop No.7 on 02.05.2011.
- 2.3 The Appellant thereafter approached the Respondent No.1 (NDPL) for release of a new commercial connection vide application No.2000208053 dated 06.05.2011. The Respondent No.1, however, demanded a No Objection Certificate from the owner of the premises, which could not be provided by the Appellant. As such, the new electricity connection was not granted to her.



- 2.4 The Appellant filed a complaint before the CGRF-NDPL on 05.07.2011 in CG No.3597/07/11/MDT praying for release of a new electricity connection at her shop No.7, Hans Cinema Compound, G.T. Karnal Road, Azadpur, Delhi.
- 2.5 The Appellant stated before the CGRF that she was the occupant of the said premises for many years, and, therefore, entitled to a new electricity connection. The Respondent No.1, on the other hand, stated that the Appellant was not the lawful tenant/occupant. Therefore, without submitting the required 'No Objection' from the owner, Shri Zahoor Ahmed, the connection could not be granted as per the DERC Supply Code and Performance Standards Regulations, 2007.
- 2.6 The CGRF-NDPL after considering the documents and arguments of the parties came to the conclusion that the matter was sub-judice before the Hon'ble High Court of Delhi vide Suit No.C.S. (OS) No.2536/2010 and, therefore, the new electricity connection could not be granted.
- 3.0 The Appellant, not satisfied with the Order of the CGRF-NDPL dated 26.09.2011, has filed this appeal on 14.10.2011 for release of a new electricity connection at shop no.7.
- 3.1 The following points have emerged from the records and the documents filed by the Appellant:
- i) The Appellant was receiving electricity supply at shop No.7 through the connection installed for Hans Cinema. Mr. Zahoor Ahmed disconnected the electricity supply to the

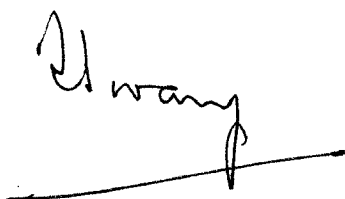


shop No. 7 in May 2011 (2.5.2011). The Appellant applied for a new electricity connection in her own name as occupant of shop No.7 on 5.5.2011.

- ii) The Respondent No. 1 disallowed the application on the grounds that under the DERC Supply Code and Performance Standards Regulations, 2007, a 'No Objection' was required from the owner of the premises which had not been submitted.
- iii) The dispute about the property and the Appellant's tenancy rights are subjudice before the Hon'ble High Court of Delhi, since Mr. Zahoor Ahmed, the alleged owner of the property has filed a suit vide No.2536/2010 in respect of the property, including the Appellant's premises i.e. M/s Vinni Glass House, Shop No.7, Hans cinema Compound, G. T. Karnal Road, Azadpur, Delhi.

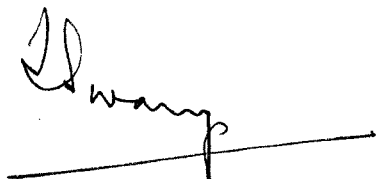
3.2 The Hon'ble High Court of Delhi vide its Order No.2536/2010 dated 15.12.2010 in the above matter, inter-alia, appointed a Local Commissioner and also directed that status-quo in respect of the possession over the suit property i.e. shop No.7 be maintained. The Local Commissioner submitted a report dated 22-12-2010 to the Hon'ble High Court of Delhi.

4.0 After receipt of the comments from the Respondent No.1 on the Appellant's appeal, the case was fixed for hearing on 13.12.2011.



On 13.12.2011, the Appellant was represented by Shri S. B. Goel, Advocate and her sons Shri Sonu Katyal, and Shri Rajesh Katyal were also present. Respondent No.1 was represented by Shri K. L. Bhayana, Advisor and Shri Vivek, Senior Manager (Legal). Both the parties argued their case. It emerged from the arguments that the tenancy rights of the Appellant were sub-judice before the Hon'ble Delhi High Court. As such, the Appellant was directed to file copies of the documents regarding the property dispute before the Hon'ble Delhi High Court, including the order for status-quo. It was also decided that a notice be issued to Mr. Zahoor Ahmed, being the affected party, to appear at the next hearing on 20.12.2011.

- 4.1 The Appellant filed the required documents vide her application dated 15.12.2011.
- 4.2 At the hearing on 20.12.2011, the Appellant was represented by Shri S. B. Goel, Advocate and Shri Sonu Katyal was also present. The Respondent No.1 was represented by Shri Vivek, Senior Manager (Legal). Shri Zahoor Ahmed was represented by Ms. Anju Lal, advocate, and was impleaded as Respondent No. 2. The Appellant argued that she, being the occupier of the premises, was entitled to a new electricity connection. The Appellant submitted copies of the judgments dated 12.10.2007 and 22.07.2008 of the Hon'ble High Court of Kolkata to support her claim. As per the judgments cited, the occupier of a premises was entitled to get an electricity connection under

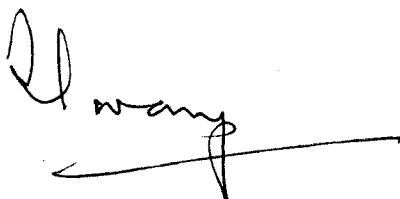


section 43 of the Electricity Act, 2003 on the grounds of essential necessity.

The Respondent No.1 stated that a new electricity connection could not be granted without completing the required formalities including a 'No Objection' from the owner of the premises as per the DERC Regulations. The facts of the cases cited by the Appellant are not identical to the present case and are therefore not relevant.


4.3 The Respondent No.2 argued that the Hon'ble Delhi High Court vide their order dated 15.12.2010 in CS(OS) No. 2536/2010 and I.A No. 17011 appointed a Local Commissioner to submit a report after inspection of the premises and had also directed the parties to maintain status-quo in respect of possession over the suit shop, and this order was continuing. Respondent No.2 also stated that the matter was subjudice, and a new connection could not be granted to the Appellant in view of the order of status quo. He also admitted that he had been giving electricity supply to the Appellant from his connection under a mutual arrangement to which the Respondent No. 1 was not a party. He had however disconnected the supply in May 2011, due to differences with the Appellant.

4.4 The Respondent No.2 vide his reply dated 20.12.2011 also submitted documents in support of his contentions, which were taken on record.

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- 5.0 It is clear from the documents filed by the parties, and the arguments of the parties that the Appellant and the Respondent No.2 had a private arrangement regarding supply of electricity to the Appellant's shop No.7. Subsequently, the Respondent No.2 disconnected the electricity supply to shop No.7 located in his compound and filed a suit No.CS(OS) No. 2536/2010 and I.A No. 17011 for dispossession of Appellant from the property, which is pending before the Hon'ble Delhi High Court and status-quo is to be maintained as per the Hon'ble High Court's order.
- In the letter and spirit of the status-quo order passed by the Hon'ble Delhi High Court, neither the Respondent No.2 could have disconnected the supply of electricity to the shop No.7 in May 2011, nor the Appellant could apply for a new electricity connection for shop No.7, as both these actions disturb the 'status quo'.
- 5.1 The Respondent No.1 has rightly asked the Appellant to submit a 'No Objection' from the owner of the premises, as required under the DERC Supply Code and Performance Standards Regulations, 2007, especially in view of the orders of the Hon'ble High Court of Delhi for maintaining status quo. The Appellant is at liberty to approach the Hon'ble Delhi High Court for any interim relief in respect of electricity supply to Shop No-7.
- 5.2 The case is accordingly disposed of. The compliance of this order may be submitted within 21 days.**

23rd December 2011


(SUMAN SWARUP)
OMBUDSMAN