

OFFICE OF ELECTRICITY OMBUDSMAN

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

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Appeal No. 62/2024

(Against the CGRF-BYPL's order dated 04.12.2024 in Complaint No. 461/2024)

IN THE MATTER OF

Smt. Sushila Devi

Vs.

BSES Yamuna Power Limited

Present:

Appellant: Shri Ramavtar Sharma, spouse of the Appellant

Respondent: Ms. Shweta Bist, DGM, Ms. Chhavi Rani, Legal Retainer and
Shri Akash Swami, Advocate, on behalf of BYPL

Date of Hearing: 23.04.2025

Date of Order: 24.04.2025

ORDER

1. Appeal No. 62/2024 has been filed by Smt. Sushila Devi, R/o C-268, Pandav Nagar, Delhi - 110092, through her spouse Shri Ramavtar Sharma, Authorized Representative, against the Consumer Grievance Redressal Forum – Yamuna Power Limited (CGRF-BYPL)'s order dated 04.12.2024 in Complaint No. 461/2024.
2. The background of the case is that the Appellant Smt. Sushila Devi had applied for a new domestic electricity connection at premises located at S-229/A, Ground Floor, Pandav Nagar, Delhi - 110092 vide Request Order No.8007122031. However, the Discom rejected this application on the ground that there were outstanding dues against the Appellant's electricity connection bearing CA No. 100932072.
3. Against this, the Appellant filed a complaint before the Forum, submitting that the Discom had rejected her application for release of a new connection on the ground that there are pending dues against her name on the premises in question. The fact, however, was that there were no outstanding dues against any electricity connection in her name.



Even, if the Discom's claim is considered, it raises the question of how they released five connections in the same building, and four connections in the adjacent building, which have same address, i.e. S-229/A. The Appellant requested the Forum to direct the Discom to release the connection applied for.

4. The Discom, submitted that during an inspection of the premises, where the connection was requested on 09.02.2024, many discrepancies were found, namely: (a) pending ownership dispute regarding the parking and ground floor before the Trial Court, Karkardooma Court (Civil Suit No. 891/2021 titled as Sushila Devi vs. Sudhesh & Ors), (b) energy dues pending against the Appellant's name at the same site against CA No 100932072, and (c) no domestic unit exists at the ground floor. To substantiate its claim, the Discom provided relevant documents, viz; a copy of civil suit, a statement of outstanding dues, and photographs of the premises. Consequently, new connection could only be processed if the aforesaid objections are cleared by the Appellant besides submission of the application in accordance with the provisions of the Delhi Electricity Regulation Commission (Supply Code & Performance Standards) Regulations, 2017. The Discom also laid reliance upon the order passed by the High Court of Delhi in the case of Shri Izhar Ahmad & ANr vs. BSES Radhani Power Ltd. {CM(M) 155/2009}. Furthermore, The Discom admitted that multiple connections already exist at the site, in question. The site was again visited on 22.02.2024, and the Discom submitted its report to the Forum mentioning that the building was Parking + Four Floor structure old building with no domestic connection in parking area. There were also dues in the name of the applicant.

5. The CGRF-BYPL, in its order dated 04.12.2204 detailed Rule (2) & (3) of Regulation 10 of DERC's Supply Code, 2017, which require proof of identity of the applicant and Proof of Ownership or occupancy of the premises. Further, the Forum relied upon Rule (1) of Regulation 13 of the DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman), Regulations, 2018, which specified the "Limitation of Jurisdiction of the Forum". Accordingly, the Forum held that it had no jurisdiction to entertain the complaints or matter which are pending for adjudication in any other Court or Forum. Since the matter of ownership for the applied portion is still pending in the Trial Court, Karkardooma, the complaint was dismissed in the absence of ownership proof. The Discom was directed to release the new electricity connection, in future, in case the complainant produces the ownership documents, after fulfillment of other commercial formalities as per the DERC's Regulations, 2017.

6. The Appellant, dissatisfied by the order dated 04.12.2024, passed by CGRF-BYPL, and has filed this appeal reiterating the submissions as before the Forum. In addition, the Appellant asserted that her case before the Trial Court pertains to scooter parking, which is separate from the common hall. Therefore, the Forum has taken wrong observations of the pending case in the Trial Court. To substantiate her claim, the Appellant has provided the



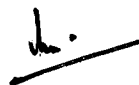
relevant documents with photographs of the subject premises and requested for release of a new electricity connection.

7. The Discom, in its written submission dated 21.01.2025 reiterated the facts as placed before the CGRF-BYPL. Additionally, the Discom contended that the Appellant's claims are incorrect, false & frivolous, the Appellant herself admitted pendency of litigation before the Trial Court, Karkardooma during the hearing in the Forum, which does not require further proof, in terms of Section 62 of Bhartiya Sakshya Adhiniyam, 2023. In the light of the facts that (a) the ownership of the premises is under challenge, (b) non-existence of dwelling unit, (c) outstanding dues against the premises in subject, and (d) installing of a metal case around the meter, make the entire case barred under the Regulations of the DERC's Supply Code, 2017, rendering the appeal invalid, and, therefore, needs to be dismissed. To substantiate their position, the Discom provided relevant documents along with photographs of the premises.

8. The appeal was admitted and fixed for hearing on 23.04.2025. During the hearing, the Appellant was represented by her spouse Shri Ram Avtar Sharma, and the Respondent was represented by its authorized representatives/advocate. An opportunity was given to both the parties to plead their respective cases at length and relevant questions were asked by the Ombudsman and Advisors, to elicit more information on the issue.

9. During the hearing, the Appellant's spouse (Authorized Representative) submitted a rejoinder, which was also shared with the Discom, and taken into the record. The AR reiterated the contentions as stated in the appeal and rejoinder. In response to a query as to whether any case with respect to the applied premises is pending before the court, AR submitted that the pending civil case is related to dispute of parking space only which does not have any relation with his prayer of new electricity connection. The applied remaining area consists of a common hall, bathroom and a toilet at the ground floor (No. S-229A). The site plan and photographs of the ground floor were shown to the Ombudsman by the AR, in support of her contention. Reference is made to the operative part of the CGRF order by the AR which states that the connection could be provided if in near future the Complainant produces ownership documents. AR contested that the said CGRF's order was not complied with by the Respondent and the Appellant was denied deliberately despite having the ownership document.

Advisor (Engineer) said that perusal of court orders (Karkardooma Court) in civil suit no. 891/21; title- Sushila Devi vs. Sudesh (one of the resident in the flats) clearly confirms that the plaintiff (Sushila Devi), who is stated to be builder, had sold all the four flats in the suit property (S-229A). Attention was also invited by him to all the four General Power of Attorney(s) executed in favour of buyers of the flats in which it is categorically mentioned that, "*the staircase, Passage and Parking shall be common with others from Ground Floor onwards*". Although the AR raised his objection on this statement but also could not present



convincing response in support of his contention on absolute ownership against which the suit property of ground floor is still subjudice.

10. In rebuttal, the Respondent reiterated its written submission. Attention was invited by the Advocate on the issue framed by the Karkardooma court, in its order dated 09.04.2024, whether the plaintiff (Sushila Devi) is the owner of ground floor of property bearing No.S-229A. Moreover, in that order, the Appellant's interim application u/o 39 Rule 1 & 2 r/w Section 151 CPC, requesting for urgent relief was dismissed as withdrawn by the Appellant. Advocate contested that the dispute over ownership viz-a-viz the applied premises is pending for adjudication before the Trial Court. Therefore, under these circumstances, the requisite connection could not be granted. As far as the site plan is concerned, Advocate submitted that this is an admitted fact before the civil court that the Appellant does not have any sanctioned site plan. It was not procured by the Appellant before raising the constructions on the property. This fact has also been taken into consideration by the CGRF before passing the order.

11. Having taken all factors, written submissions and arguments into consideration, the following aspects emerge:

- a) In the pending Civil Suit, 891/2021, before the Karkardooma Court, the Court on 09.04.2024, framed issues including ownership of ground floor and decree of injunction. The matter is still pending.
- b) Connection has been applied for, at ground floor S-229A, without establishment of any domestic unit at ground floor, as per the Discom's report. There are also outstanding dues of Rs. 39,434/- ,in respect of an existing connection in the name of Smt. Sushila Devi.
- c) It is clear that the Appellant has outstanding dues of disconnected electricity connection (CA No. 100932072) amounting to Rs.39,434/-, in the name of Smt. Sushila Devi, S-229A, Pandav Nagar, due date 29.09.2024.
- d) It is evident from the Conveyance Deed that she is the owner of ground floor and remaining floors are with other occupants. Ground floor is having common scooter parking area and she constructed a hall, which according to her is a common hall. As such, there is no domestic unit at ground floor and dues are also payable by her only, appeal is devoid of any merits.




12. In the light of the above, this court directs as under:

- (i) The appeal is dismissed as devoid of merit and the order of the CGRF is upheld.
- (ii) Discom may consider release of connection in the light of the decision of the Court in the Civil Suit 891/2021, particularly the ownership of ground floor. The release of connection in view of the Court decision would also require completion of other commercial formalities which also include proof of the premises being a domestic unit, its occupancy and clearance of the outstanding dues by the Appellant.

13. This order of settlement of grievance in the appeal shall be complied within 15 days of the receipt of the certified copy or from the date it is uploaded on the website of this Court, whichever is earlier. The parties are informed that this order is final and binding, as per Regulation 65 of DERC's Notification dated 24.06.2024.

The case is disposed off accordingly.


(P.K. Bhardwaj)
Electricity Ombudsman
24.04.2025