

Office of Electricity Ombudsman

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

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Appeal No. F. ELECT/Ombudsman/2006/86

Appeal against Order dated 10.04.2006 passed by CGRF – BRPL on Complaint No.: CG/454/05.

In the matter of:

Shri Rajan Bansal

- Appellant

Versus

M/s BSES Rajdhani Power Ltd

- Respondent

Present:-

Appellant Shri Rajan Bansal

Respondent Shri Avanish Gupta, Business Manager, BRPL, Nehru Place

Date of Hearing: 06.10.2006

Date of Order : 09.10.2006

ORDER NO. OMBUDSMAN/2006/86

The appellant Shri Rajan Bansal, co-owner of M-124, Greater Kailash-I has filed this appeal against the orders dated 10.04.2006 of CGRF. The facts based on the CGRF record of the appellant and the submissions made by both the parties in response to queries raised are as follows:-

By virtue of the sale deed dated 25.04.1977, Shri Rajan Bansal became co-owner of the above property along with his mother Smt. Raj Kumari Singh. The previous owner of the said property is Smt. Raksha Tandon. There are 4 electricity connections in the said property, one connection namely 2530N7140217 is in the name of Smt. Raksha Tandon, the other three connections viz. 2530N7140215, 2530N7140220 and 2530N7140221 were existing in the name of Smt. R.K. Singh. The licensee company on the basis of applications made by persons other than Shri Rajan Bansal (co-owner) changed the names of the above four connections as follows :-

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- (1) 2530N7140215 in the name of Shri Bipin Bansal Singh;
 - (2) 2530N7140217 in the name of Smt. Raj Kumari Singh;
 - (3) 2530N7140220 in the name of Shri Navin Bansal; and
 - (4) 2530N7140221 in the name of Smt. Raj Kumari Singh.

It appears that there is a dispute between the family members which is pending in a court of law. Without waiting for the decision of the Court and without obtaining a 'No Objection Certificate' from the co-owners the licensee company made the changes as mentioned above. It is surprising to note that after the names have been changed, there is not a single connection in the name of Shri Rajan Bansal even though he is the co-owner of the above property with his mother Smt. Raj Kumari Singh.

The CGRF, after noting the fact that the No Objection Certificate from both the co-owners should have been obtained before making the name change in the connections, passed the order **"to obtain the requisite Affidavits / Indemnity Bonds from all the concerned parties in whose favour connections have been granted without the consent of Shri Rajan Bansal, the co-owner of the property along with Smt. Raj Kumari Singh, his mother"**. It is against this order of the CGRF that the appellant has come in appeal before the Ombudsman.

The appellant in his appeal stated that

- i) "Property in question has two independent dwelling units and it can not be divided in four independent dwelling units".
- ii) "that Registered Rights of appellant cannot be questioned without obtaining orders from competent courts".

Further he has stated that he is a registered co-owner with his mother Smt. Raj Kumari Singh of the above property and all the four connections should be transferred in his joint name with the name of Smt. Raj Kumari Singh as follows:

- i) K.No.0217 Sh. Rajan Bansal and Smt.Raj Kumari Singh
- ii) K.No.0221 Sh. Rajan Bansal and Smt.Raj Kumari Singh
- iii) K.No. 0215 Sh. Rajan Bansal and Sh. Bipin Bansal Singh (Smt. Raj Kumari has given her consent in favour of Sh. Bipin Bansal Singh)
- iv) K.No 0220 Rajan Bansal and Dr. Navin Bansal (Smt. Raj Kumari has given her consent in favour of Dr. Navin Bansal.)

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The case was fixed for hearing on 06.10.2006. Shri Avanish Gupta, Business Manager, Nehru Place attended on behalf of the Respondent Company.

Shri Rajan Bansal appellant attended in person.

The case was discussed. The "DERC Regulations (Performance Standards – Metering & Billing), 2002" 7(i) & 7(ii) provide that a No Objection Certificate from the legal heir is obtained if any change is to be effected and / or transfer of ownership of connection is to be made. Proof of lawful ownership / occupancy of property is also required to be produced before a change of ownership of connection can be made. The licensee company has violated these regulations and when it asked for a 'No Objection Certificate' from Shri Rajan Bansal, co-owner of the property, **the latter clearly refused to give his consent for change of name of the above four connections.** Despite his objection to the changes sought, the licensee company made the changes.

In the hearing before CGRF, when asked why the changes were made without following DERC guidelines, it was stated by the Respondent that the **name changes made on 18.07.2003 was only provisional** and was done with the approval of the competent authority i.e. Chief Engineer (Commercial). The latter's approval was based on the occupancy / joint co-ownership on the basis of report submitted by Assistant Engineer after receipt of Memorandum of Agreements dated 01.01.1988 and 03.06.1997 and after several representations received in the matter etc. The licensee company further submitted (in the letter dated 01.08.2006) that the name changes made in the connections do not confer any right of ownership and is only for BRPL billing purposes.

Here it may be noted that the Discom could not produce any proof of having obtained the approval of the Chief Engineer for changing the name. Besides, **neither the Electricity Act, 2003 nor the DERC regulations made thereunder provide for a provisional name change of the electric connections.** DERC Regulations 7(i) and 7(ii) as mentioned above clearly provide procedure for changing the name of the electric connections which have not been followed by the Licensee Company.

The Memorandum of Agreements dated 01.01.1988 and 03.06.1997 relied upon by the licensee company are mere Agreements made between the members of the family themselves demarcating certain portions for use by each of the family members. These documents have not been registered and have no legal validity.

Apart from the above, the legal position is that Shri Rajan Bansal and Smt. Raj Kumari Singh are the co-owners of the property and no change can be made without the consent of each of the two co-owners. **In this case, despite the objections raised by Shri Rajan Bansal, the licensee company made the changes mentioned above.** The CGRF in its order dated 10.04.2006 noted that:-

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- i) BRPL did not obtain the 'No Objection Certificate' from the co-owner Shri Rajan Bansal;
 - ii) Yet it passed the order to obtain Indemnity Bond/Affidavit etc from the other members of the family to regularize the changes wrongly made.

The CGRF, instead of fixing responsibility on the Discom for unauthorized transfer of electric connections, directed it to regularize the changes by asking for affidavits / Indemnity Bonds etc.

Interestingly, the order dated 10.04.2006 of the CGRF has annexed the dissenting opinion of the Member (Legal) which is very significant. He has stated

- i) that the name change in all the four connections which have been made, show that not a single connection stands in the name of the complainant Shri Rajan Bansal who is the co-owner of the property along with his mother...)
- ii) that "all norms of change of name have been flouted and principles of natural justice have not been followed for the above four connections...)
- iii) that since a civil suit is pending in respect of the above property amongst the members of the family, the issue of change of names of the connections may be kept in abeyance till the disposal of the civil suit and the existing connections may not be interfered with till then.

I agree with the opinion of the Member (Legal) and direct that the changes effected in the names of the four connections may be undone / cancelled and the connections existing in the earlier names should be restored so that the status quo is maintained. In other words, the connections as they existed (prior to change in name) may not be interfered with till the disposal of the civil suit in respect of the ownership of the above property.

The order of the CGRF is set aside.

अशा मेहरा
(Asha Mehra)
Ombudsman