

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-cum-Fax No.: 011-26141205)

Appeal No. 15/2018

IN THE MATTER OF:

Shri Mahender Pal Yadav - Appellant

Vs.

M/s Tata Power Delhi Distribution Ltd. – Respondent

(Appeal against order dated 06.04.2018 passed by CGRF- TPDDL in CG No.
7857/01/18/KPM)

Present:

Appellant: Smt Raj Bala Yadav (spouse) and Ms Vasundhra (daughter) on behalf of Shri Mahender Pal Yadav.

Respondent (1): Shri Harshendu Kumar, Senior Manager (Legal) and Shri Anirudh Sinha, Sr. Manager, on behalf of TPDDL.

Respondent (2): Shri Parveen Mehta and Shri Akash (son)

Date of Hearing: 04.07.2018

Date of Order: 10.07.2018

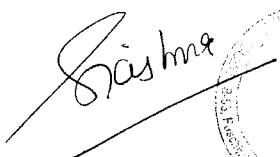
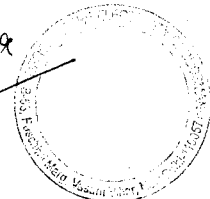
ORDER

1. This appeal has been filed by Shri Mahender Pal Yadav on behalf of his wife Smt. Raj Bala Yadav, r/o 1128, A/74, Tri Nagar, Deva Ram Park, Delhi- 110035, against the verdict of the Consumer Grievance Redressal Forum-Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) cited above.

2. The background to the appeal arises from a change of name of an electricity connection (CA No. 60000 755 227) by the Discom (Respondent), standing in the name of the previous owner Shri Mohan Lal, to one Shri Parveen Mehta, allegedly without verifying the authenticity of the documents produced by the latter and ascertaining the factual position regarding the ownership of the property. The Appellant's contention is that the documents are forged/fabricated, have not been shown to him and, that the connection should be changed to that of his spouse, applications for which he had already given on 17.02.2006 and 29.03.2006 with no action from the Discom.

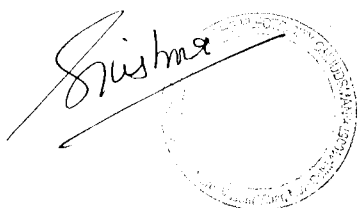
3. The Discom's response is that the connection in question was energised in January, 2003 in the name of Shri Mohan Lal and with the name being changed subsequently in November, 2017 to that of Shri Parveen Mehta on the basis of a sale deed furnished by the latter executed in his favour by his father, Shri K.K. Mehta. According to the Discom, the appeal derives from an ownership dispute between the Appellant and Shri Parveen Mehta. The Discom's contention is that they have acted in accordance with regulations governing changes in names and that the subject of titles and ownership lie only within the jurisdiction of civil courts.

4. I have heard both the parties with the Appellant being represented by his spouse and daughter as he is admitted to a hospital. The material on record has also been taken

into consideration. As far as the documents are concerned, the following picture emerges:

- a) The property in question, No. 1128/74, Tri Nagar, had been bequeathed by the original owner, Shri Mohan Lal, through a will dated 03.05.1989 to all four of his sons. The property already enjoyed an electricity connection from the erstwhile DESU at that time. Shri Mohan Lal expired in January, 1995 and partition deed was executed between the four sons in February, 2005, dividing the property amongst themselves.
 - b) One of the sons, Shri Hira Lal, subsequently sold his portion (where the electricity connection in question was installed) to Smt. Raj Bala, the spouse of Shri Mahender Pal Yadav (Appellant) through a sale/purchase deed dated 04.05.2005. Smt. Bala had obtained a loan for the purchase of the property from GE Money Housing Finance Ltd. in whose custody the original sale/purchase deed and other documents are presently lying.
 - c) Shri Parveen Mehta, in whose favour the Discom has changed the name on the electricity connection as a registered consumer, does not seem to figure anywhere in this ownership trail. The sale deed dated 09.10.2003 produced by him before the Discom shows that the property has been sold to him by his father, Shri K.K. Mehta, son of Shri G.L. Mehta, both residents of 1474/102, Tri Nagar.
 - d) Shri K.K. Mehta's title over the property is mentioned in the sale deed in favour of his son (Parveen Mehta) as deriving from one Shri Zahiruddin, s/o Shri Alimuddin, r/o 719/45, Tri Nagar, who is described as the absolute owner of the property in question and who has appointed Shri K.K. Mehta and another person Shri Badle Ram, s/o Shri Asha Ram as his general attorneys in respect of his property. Shri Badle Ram, in turn has passed on his power of attorney to Shri K.K. Mehta in respect of his share of the property. Shri K.K. Mehta, in turn and exercising his rights as an attorney, sold his property to his son Parveen Mehta.
5. The ownership trail of the property in question clearly moves from the original owner and registered consumer of the electricity connection, Shri Mohan Lal, through his son Hira Lal, to Smt. Raj Bala. The latter has obtained a loan from GE Money Housing Finance Ltd for the purchase of the property and it can be reasonably expected that this finance company would have exercised due diligence and conducted the necessary verifications and checks before granting the loan on the basis of the sale/purchase deed and other documentation proffered. The Appellant has also brought on record a copy of the mutation dated 05.10.2012 issued by the North Delhi Municipal Corporation (NDMC) in her favour in respect of the said property as also copies of property tax payment receipts issued to her by the Corporation.
6. The sale deed produced by Shri Parveen Mehta before the Discom, however, shows a different ownership trail showing the original owner as one Zahiruddin, s/o Shri Alimuddin. The name of Shri Mohan Lal does not figure anywhere on this document as noted in paragraphs 4(c) and (d) supra. Furthermore, during the hearing, Shri Mehta claimed that he had rented the property to the Appellant but that she was now laying claim to its ownership which clearly appears to be more of an afterthought unsupported by documentary evidence. Incidentally, two letters in connection with the case sent to him by speed post on 20th and 26th June, 2018 at the address of the property he says belongs to him were both returned by the Postal Department with the remarks "Item delivery attempted – unclaimed." On the balance, therefore, he has not been able to offer any concrete evidence in support of his contention that he is the owner of the property in question and that he is entitled to have the name on the electricity connection changed to his favour.
7. The Appellant stated during the hearing that she had applied for a change of name in her favour on 17th February and 29th March, 2006, both of which the Discom

A handwritten signature in black ink is written over a circular official stamp. The signature appears to be 'Srishta'. The stamp is partially obscured by the signature and contains some illegible text around its perimeter.

claims are not traceable in their records. This is understandable since a considerable period of time has elapsed and the Appellant does not seem to have made any concerted efforts since then to pursue her application. Nevertheless, it is a fact that she has been paying all the bills raised regularly and, furthermore, it is her mobile number which is registered on these bills. On the other hand, Shri Parveen Mehta's application for a name change is dated 17.11.2017 although the sale deed he has produced is dated 09.10.2003, about fourteen years earlier. When queried during the hearing as to the reason for his inaction over these years, his explanation was he "didn't have the time".

8. Regulation 17(1) of the DERC's Supply Code & Performance Standards Regulations, 2017 provides for parameters to be used when processing and permitting applications for a change of name. These include, inter alia, an NOC from the registered consumer or, in the event of his demise, documentation establishing that the applicant falls in the line of succession etc. In the present case, Shri Mohan Lal passed away in January, 1995 with one of the four sub-divided portions of his property devolving to one of his four sons, Shri Hira Lal, who, in turn, sold his share to Smt. Raj Bala. Nothing is evident from the Discom's response to indicate that they made at least an elementary effort to look at the documentation proffered with the application for a name change. The bland statement in its defence made during the hearing that they were "bound by regulations" and simply effected the name change on the basis of the sale deed produced borders on the preposterous as also their contention that the Appellant "does not have the locus-standi to file the complaint as the complainant is not the registered consumer of the disputed connection". One would be left wondering whether the Discom expected the long-deceased Shri Mohan Lal to appear personally in this case or whether they think that any right to dispute the issue rests solely with the other party, Shri Parveen Mehta, to whom they have already transferred the name on the connection as a fait accompli without even a cursory look at the documentation he had produced with his application. On top of this, the Appellant has brought to notice that, although her mobile number is registered on the electricity bills, no communication whatsoever, either through an SMS or a call, was ever received by her to intimate that a name change was being effected.

9. There can be no excuse for this egregious action on the part of the Discom which cannot take shelter behind frivolous technicalities. The Discom has not been able to offer any exculpatory explanation whatsoever to justify their arbitrary action in effecting a name change without even the smidgen of a preliminary effort at examining the documents submitted or contacting the mobile number registered on the bills. While it is certainly not expected that Discoms get involved in an in-depth analysis of the veracity of ownership documents, they nevertheless have to expend a certain modicum of basic effort to establish that essential criteria are being met, something which does not require any great intellectual effort. There is something very clearly amiss in the manner in which the Discom's officials have acted in the present case – yet the Discom has opted to stoutly defend their indefensible actions before the CGRF, thereby compelling the Appellant to come up in appeal before this court.


10. It would not be out of place here to note that in more than one case in the past, Discoms seem to have adopted a pick and choose attitude at times, abrogating to themselves the role of an inquisitor by questioning the documents submitted and delaying applications for services where it is not needed while glossing over others as in the present case. A reasonable balance has to be struck between the two. It is against this context that it had been deemed appropriate to issue a communication dated 07.06.2018 from the Ombudsman addressed to all Discoms pointing out that cases repeatedly come to notice where lack of due diligence on the part of the Discoms result in triggering wholly avoidable complaints and litigation before the CGRFs/Ombudsman and compounding possible property ownership disputes between the parties concerned. The main point made is that while the Supply Code contains the basic framework governing the interface between Discoms and consumers, Discoms have to demonstrate

some sensitivity and appreciate that a blind invocation of the letter of the law without an application of mind could lead to complications and result in avoidable harassment to consumers as well as waste of judicial time.

11. At the same time, it is also necessary to observe here that the CGRF's verdict has summarily dismissed the Appellant's complaint without even going into the merits of the case on the flimsy ground that "the argument of the complainant does not have any basis of law" (sic) and that there are no merits in the complaint without explaining what this is supposed to mean. Furthermore, the other party, Shri Parveen Mehta, was not even impleaded in the proceedings despite the Discom asking for it. In other words, the CGRF's verdict cannot be considered a speaking order, is seriously deficient in its analysis of the merits of the case, and deserves to be set aside.

12. Against the background of the above exposition, the following directives are hereby passed:

- a) The verdict of the CGRF-TPDDL is hereby set aside and the Discom directed to carry out the change in name forthwith in favour of Smt. Raj Bala Yadav, within ten days from the date of receipt of this order with a compliance report being sent to this court;
- b) Although this issue was not raised by the Appellant, the Discom's egregious action in contributing to the emergence of this wholly avoidable situation and unnecessary litigation - with its attendant harassment to the Appellant and his spouse, both of whom are senior citizens - requires a very strong message that such actions will not and cannot be countenanced. Accordingly, the Appellant is hereby awarded a sum of Rs. 15,000/- (Rupees fifteen thousand only) as compensation for the harassment, mental agony and litigation they have been compelled to go through for no fault of theirs. This sum to be paid to the Appellant within ten days from the date of receipt of this order under intimation to this court.
- c) The Discom will investigate and fix responsibility for the egregious action of its officials with the outcome again being intimated to this court.


(Sundaram Krishna)
Ombudsman
10.07.2018