

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. 13/2018

IN THE MATTER OF:

Shri Rajesh Chopra - Appellant

Vs.

M/s Tata Power Delhi Distribution Ltd. – Respondent

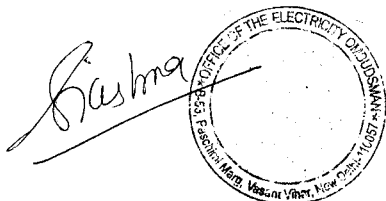
(Appeal against order dated 10.04.2018 passed by CGRF- TPDDL in CG No. 7782/09/17/KPM)

Present:

Appellant: Shri Rajesh Chopra and Shri Surender Kumar (father)
Respondent: Shri Harshendu Kumar, Senior Manager (Legal) and Ms. Parul Bansal, A.M. on behalf of TPDDL
Date of Hearing: 01.06.2018
Date of Order: 05.06.2018

ORDER

1. This appeal has been filed by Shri Rajesh Chopra, s/o Shri Surender Kumar, r/o A-55, Sawan Park, Ashok Vihar-III, Delhi – 110052, against the verdict of the Consumer Grievance Redressal Forum–Tata Power Delhi Distribution Ltd. (CGRF-TPDDL) cited above.
2. The background, in brief, is the Appellant's contention that his application for the grant of a new connection for his first floor premises has been denied by the Discom (Respondent) on the ground that there are outstanding dues amounting to Rs.97,645/- pertaining to a disconnected connection (CA No. xxxx 7591) which was located in the same premises and registered in the name of his grandfather, Shri Sada Nand, who was also the owner of the property. The Appellant holds that he is not liable to pay the dues as the electricity from the disconnected connection was never consumed in his portion of the sub-divided property and that it should be recovered from those who used it. The CGRF, however, ruled that the outstanding dues pertained to the entire property and that the Appellant is liable to pay half of it on a pro-rata basis, hence this appeal.
3. The Discom's verdict, on the other hand, is that the premises originally belonged to one Shri Sada Nand, the Appellant's grandfather in whose name the disconnected connection stood, and who had bequeathed the property in equal shares on the one side to one grandson (the Appellant) and the other share to three other grandsons, Rahul, Amit and Pradeep. Shri Sada Nand's connection, which was subsequently disconnected for non-payment of dues, was for the property as a whole with the outstanding dues having to be shared on a pro-rata basis in equal shares of 50% each devolving on to the Appellant as the owner of half of the property and the other three grandsons who own the remaining half.
4. I have heard both the parties and considered all the material on record. The Appellant's arguments during the hearing have centred on his contention that he had



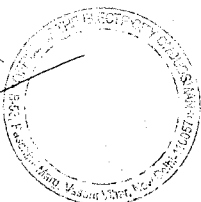
never used electricity from the disconnected connection belonging to his grandfather and which had actually been used by the other three grandsons. His argument was that he had inherited only the unbuilt portion of the property while the built-up portion, where the electricity has been used, had gone to the three grandsons – a fact supported by the findings of three site inspections. He further said that three connections had been sanctioned between the years 2010-11 with the Discom never raising any arrears at that point of time. According to him, the Discom had raised a demand of Rs.46,000/- in 2012 which they withdrew after he had protested. Subsequently, the Discom raised the demand again in 2014 after two years, withdrawing it after the Appellant's protest and raising it once again in 2017 after adding late payment surcharges. The Appellant also challenged the applicability of the pro rata formula, arguing that it could only be applied if arrears/dues existed at the time of death of the consumer whereas in the present case no such demand were raised following the grandfather's demise in 2001.

5. The Discom's counter arguments were that the three connections sanctioned in 2010-11 and mentioned by the Appellant were given at a time when the disconnected connection registered in the name of the grandfather was still live and the dues outstanding against it could not, therefore, have been transferred to any other connection, further pointing out that while the registered consumer (the grandfather) had passed away in 2001, no efforts have been made by any of the family members to have the Discom informed and the documents suitably amended. Holding that site inspection reports do not clearly substantiate the Appellant's claim that he had inherited only the unbuilt portion of the property, the Discom has emphasised that the disconnected connection had been granted for the property as a whole and not for subdivided portions. Furthermore, Regulation 20 (2) (iii) of the DERC's Supply Code & Performance Standards Regulations, 2007 expressly provides that charges which remain unpaid by a deceased consumer (or erstwhile owner/occupier, for that matter) shall be a charge on the property transmitted to the legal representatives or successors-in-law.

6. Having taken all factors and arguments into consideration, I find that the applicability of Regulation 20 (2) (iii) has a sound basis and cannot be circumvented. The outstanding dues devolve onto the premises/property as a unitary whole and cannot be segregated into portions to suit the convenience of the various occupants. In my considered view, the applicability of the pro rata formula is not subject to challenge. Furthermore, the regulations are also clear that outstanding dues stand transmitted to the legal heirs /successors-in-law of the deceased consumer. It is rather surprising that, although the original consumer (the grandfather) had passed away in the year 2001, no visible attempt whatsoever seems to have ever been made by any of the members of this extended family, who had inherited the property and its electricity connection, to inform the Discom of the changed circumstances, to ascertain if any dues were pending or transfer the name to the legal heirs for a decade till its disconnection in 2011.

7. At the same time, I find that there is a clear lack of visible efforts and focus on the part of the Discom to attend to the issue of outstanding dues against the disconnected connection over many years. The initial demand for payment of arrears was raised in 2012 and again in 2014 and later in 2017. What transpired between these years and what affirmative actions were initiated by the Discom to identify and recover the dues from the party/parties liable to pay the same is wholly unclear. The latest demand in 2017 was raised only after the Appellant had applied for a new connection and the question which begs an answer is what the Discom would have done if the Appellant had not applied for the same.

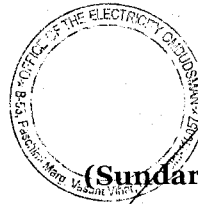
8. My considered opinion, therefore, is that an equal liability devolves onto both the parties for the present state of affairs. The Appellant cannot escape liability for payment of part of the arrears since they belong to his own late grandfather and are fastened to the property as a whole and, by extension, to all his legal heirs. His defense that all the arrears pertain to electricity consumed by the other three grandchildren and that he is

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not liable as he did not use any of it does not stand substantiated. On the other hand, the Discom has adopted an on-off, on-off attitude, having clearly made no palpable efforts to recover the dues from the actual defaulters but continued adding late payment surcharges which can only be describe as an unfair business practice.

9. It is, accordingly, held that the Appellant is liable to pay his pro rata share of the arrears belonging to his late grandfather in his capacity as one of the legal heirs and inheritors of the property in question. The late payment surcharge shall, however, stand completely waived as the Discom cannot transfer the consequences of its own inaction in the matter to the Appellant. The CGRF's verdict stands amended to that extent. For its part, the Discom shall make concerted efforts to identify the other parties who are liable to pay the arrears and recover the same from them.

The appeal stands disposed off accordingly.



(Sundaram Krishna)
Ombudsman
05.06.2018