

Consumer Grievance Redressal Forum
FOR BSES YAMUNA POWER LIMITED
(Constituted under section 42 (5) of Indian Electricity Act. 2003)
Sub-Station Building BSES (YPL) Regd. Office Karkardooma,
Shahdara, Delhi-110032
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C A No. 151144788
Complaint No. 89/2022

In the matter of:

Sangeeta)Complainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmed Alvi, Member (CRM)

Appearance:

1. None present on behalf of the complainant
2. Mr. Imran Siddiqi, Ms. Ritu Gupta, Ms. Shweta Chaudhary & Ms. Katha Mathur, On behalf of BYPL

ORDER

Date of Hearing: 05th July, 2022
Date of Order: 07th July, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the complainant applied for new electricity connection and the respondent had not install the meter till date.

The complainant's grievance is that she is residing at H.No. 2, Shani Bazar Gali, Johripur, Delhi-110094. Since year 2016, respondent transferred Rs. 3,56,000/- of other connection to her live connection. She further states that she has no relation with the transferred dues. She visited the office of the respondent

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on many occasions but respondent did not pay any heed to her complaint. Therefore, she requested the Forum to direct the respondent for immediate removal of transferred dues from her CA no and restoration of supply.

Notices were issued to both the parties to appear before the Forum on 09.06.2022.

Respondent submitted their reply stating therein that the complainant has challenged the dues which were transferred to electricity connection bearing CA no. 151144788 registered in her name in the year 2015. The dues transferred pertain to CA NO. 100018001 registered in name of Sh. Jiley Singh at Kh. No. 220, Village Johripur, Delhi-110094. The same were transferred proportionately in year 2015 to four electricity connections. The details of said four electricity connection are as under:-

- CA NO. 150018130 in name of Kamla Devi w/o Jai Singh
- CA No. 101379902 registered in name of Mukesh Devi
- CA No. 1501144788 registered in name of Sangeeta w/o Harender Kumar
- CA No. 101476713 registered in name of Shripal s/o Jiley Singh

Respondent further added that as per Regulation 13 of DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018, Limitation of Jurisdiction of the Forum.

As such this Forum has no jurisdiction in respect of the subject matter pertaining to transfer of outstanding dues of CA No. 100018001 as the same has already been adjudicated in the matter titled as "Mukesh Devi Vs BSES" bearing CA No. 187/2016 wherein detailed judgment and decree was passed on 20.06.2020 by Hon'ble District and Session Judge, North East, Karkardooma Courts, Delhi. In respect of said order no appeal has been filed and as such the said judgment has become final.

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The plaintiff in the said suit had sought the declaration against the outstanding dues of Rs. 3,54,896/- which was one-fourth share of Rs. 14,19,586/- by raising dispute on the quantum of dues outstanding against the disconnected connection registered in the name of Shri Jilley Singh, bearing CA No. 100018001, pertaining to premises at Kh. No-220, Village Johripur, Delhi-110094.

By way of the aforesaid Judgment the Hon'ble court vide referring to site inspection report dated 09.10.2015, show cause notices, speaking orders dated 15/17.12.2015, Dues Transfer Certificate and three profiles sheets pertaining to the disconnected connection bearing CA No. 100018001 and taking into consideration the billing parameters held that transfer of dues of Rs. 3,54,896/- (one-fourth of Rs. 14,19,586/-) was legal. The relevant portion is quoted herein below:-

"2. The defendant filed the written statement and contested the suit. The defendant in preliminary objections stated that the plaintiff twisted and concealed material facts. The disconnected connection was sanctioned in name of Jiley Singh, father in law of the plaintiff and installed at premises in question was disconnected around June/July, 2008 on account of non-payment of dues amounting to Rs. 14,19,586/- despite repeated reminders. The premises in question was inspected on 09.10.2015 and it was found that electric supply was continued at premises in question through four meters bearing meter no 17076335, CA No 150018130 registered in name of Kamla Devi w/o Jai Singh; meter no 13485472, CA No 101379902 registered in name of the plaintiff; meter no 23326103, CA No 1501144788 registered in name of Sangeeta w/o Harender Kumar and meter no 13679128, CA No 101476713 registered in name of Shripal s/o Jiley Singh. Show Cause Notices dated 14.10.2015 and 02.11.2015 were issued against these four consumers whereby they were asked to discontinue illegal extension failing which outstanding dues of Rs.14,19,586/would be transferred in their accounts.

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The consumers were also given time for personal hearing but they did not appear for personal hearing. The defendant also supplied Three Reading Profiles in respect of disconnected connection to the plaintiff. Third Reading Profile was prepared on basis of recording through Common Meter Reading Instrument (CMRI) and due to migration of data for up gradation of system figure of total units of 446251.800 were shown as 46251 wrongly. The defendant vide speaking order dated 15/17.12.2015 transferred outstanding dues of Rs.14,19,586/- against four electric connections proportionately and Rs. 3,54,896.70 were transferred in the account of the plaintiff.

Thereafter the registered consumer of CA Nos. 101476713 and 150018130 i.e. Shripal and Kamla Devi respectively filed complaints before the learned CGRF vide CG No. 49/2020 and 50/2020 in respect of same subject matter i.e. transfer of 1/4th dues of electricity connection registered in the name of Jilley Singh to their electricity connections. The said two complaints were disposed off by this learned CGRF vide its order dated 24.12.2020 against which the respondent herein has filed two writs bearing nos. W.P C. No. 14326 of 2021 and W.P C. No. 14327 of 2021 which are pending before Hon'ble High Court of Delhi and are now listed on 17.10.2022. Copies of order passed by Hon'ble High Court are enclosed herewith.

By way of the present complaint Complainant is seeking to re-agitate the issue of transfer of dues which has already been adjudicated and decided by Hon'ble District and Session Judge North East, Karkardooma Courts, Delhi. Reference in this regard may specifically be made to paragraphs of the Judgment dated 20.06.2020 as quoted herein above. In respect of same subject matter even two Writs are pending before the Hon'ble High Court of Delhi.

The matter was listed for hearing on 09.06.2022, when none was present on behalf of the complainant and Forum noted that Mukesh Devi already filed a

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complaint of same property and same dues before the Civil Court and same was decided by Civil Court, Karkardooma. Thereafter, complainant Kamla Devi & Shripal Singh made another complaint for the same issue, same premises and same dues in the CGRF in the year 2020 which was decided by the forum on 24.12.2020 against which respondent filed two writs bearing no. W.P.C. No. 14326 of 2021 and W.P.C. no. 14327 of 2021 which are pending before the Hon'ble High Court of Delhi and are now listed for hearing on 17.10.2022.

The complainant again filed the same matter of the same property and same dues before this Forum. Since the same matter between the same parties is pending for adjudication before the Hon'ble High Court of Delhi, this Forum has no jurisdiction to entertain the present case, since the complainant was not present therefore, another date was given.

The matter was finally heard, on 05.07.2022, when again none was present on behalf of the complainant. Forum noted that after filing the complaint in the Forum, the complainant is not present on the two consecutive hearings. Forum feels that complainant is no longer interest in pursuing the matter in the forum.

Forum also noted that the matter is sub-judice before the High Court of Delhi on the same dues and same property. Matter was reserved for orders.

We have gone through the submissions. From the narration of facts and material placed before us we find that already same matter between the same parties in the name of Kamla Devi & Shripal Singh are pending for adjudication vide W.P.C. No. 14326 of 2021 and W.P.C. no. 14327 of 2021 before the Hon'ble High Court of Delhi against the orders of the CGRF and now listed for hearing on 17.10.2022.

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Also, as per Regulation 13 of DERC (Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2018, Limitation of Jurisdiction of the Forum which is narrated below:

13. Limitation of Jurisdiction of the Forum (1) The Forum shall not entertain a grievance if it pertains to the same subject matter for which any proceedings before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority or forum.

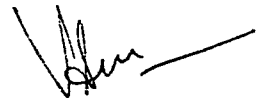
We are of considered opinion that as per above stated Regulation, this Forum has no jurisdiction to entertain the present case and if complainant wants she can also add herself as a party before the Hon'ble High Court of Delhi in the above stated matters of Kamla Devi, Shripal Singh.

The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.



(NISHAT AHMED ALVI)
MEMBER (CRM)



(VINAY SINGH)
MEMBER (LAW)