



CA No. 101577472
Complaint No. 35/2020

In the matter of:

Anil KumarComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

Appearance:

1. Mr. Anil Kumar, the complainant
2. Mr. Imran Siddiqui, On behalf of BYPL

ORDER

Date of Hearing: 19th October, 2020

Date of Order: 12th November, 2020

Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)

The complainant filed a complaint, CA No.101577472 before Consumer Grievance Redressal Forum, BYPL, Delhi.

He had requested in the above letter under reference that an amount of Rs.7575-40/- belong to some other person, has been transferred to his electric meter. Although the above transferred amount has no relation with him yet he is ready to pay the above bill. The complainant intended to know the following information from the Forum:

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1. The time period and monthly meter readings of the due amount transferred to his property.
2. How the month-wise bill calculated.
3. What is the actual due payable amount and how penalty has been calculated?
4. In spite of protracted correspondence by the complainant, the requisite information as sought by him was not provided. He requested the Forum that necessary details of the bill be provided to him at the earliest without disconnecting the electric supply to his premises till the settlement of the dispute.

Respondent filed the reply on dated 20.08.2020 in which it is submitted that the complaint is liable to be dismissed as current dues is to be paid by the complainant dues amount is Rs.75393.04 was transferred from the electricity connection in the name of Ms. Shushila Chaudhary against the CA No.101570303 at the address of complainant to the live connection of the complainant and same address later on site visit on 12. 12.2019 was conducted and it was conducted and it was found that premises in issue where the disconnected connection bearing CA No.101570303 was now provided the electricity through the live connection registered in the name of Ms. Sushma Tripathi where Ms. Sushila Chaudhary was disconnected.

The registered consumer live connection was served with the notice on dated 30.12.2019, as per DERC guidelines, 2017. The consumer was issued the demand notice of the above mentioned amount and provided ten days time to reply if any. Again, respondent has mentioned that the complainant has disputed the amount for the dues, but the Hon'ble High Court of Delhi ordered on dated 01.10.2019 directed to recover the above amount of the said premises. The hearing was conducted by the Forum on 21.08.2020, in which Forum asked the respondent to supply the statement of account of the energy charges and also supply copy to the complainant before the next date of hearing 31.08.2020. The Forum on 31.08.2020 stayed the disputed amount and directed to pay the current dues. The statement of account filed by the respondent and supplied

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the copy to the complainant. During the course of hearing it was found by the Forum that the complainant has deposited some cheque of the disputed amount to the concerned Division and Rs.35000/0 in cash. Both the parties are directed to file the reply in respect of account of energy. The next date of hearing was 21.09.2020. The complainant filed a withdrawal letter on 16.09.2020, the Forum directed to both the parties to file agreement of settlement and affidavit as per CGRRF Regulations, 2017. On dated 09.10.2020 both the parties have filed affidavit and settlement letter. But on dated, 09.10.2020 the complainant submitted that the said agreement has not been enforced till date. The Forum has adjourned the proceedings for 19.10.2020. On 19.10.2020, the respondent has filed the bill of zero balance of the complainant. The case reserved for order.

During the course of hearing it came to our knowledge of the Forum that the above mentioned CA No. of Sushila Choudhary, which complaint was filed by Shri Rajeev Singh, CG No.42/02/2012. After having gone through the complaint filed by Shri Rajeev Singh, it was inferred that this was the case of unauthorized use of electricity and the premises of above connection was inspected on 07.02.2007. The above sanctioned connection of Sushila Choudhary was domestic having load of 25 KW whereas load consumed as per readings was 5.456 KW, using it for industrial purposes. A provisional order of assessment dated 28.03.2007 was passed and accordingly bill was raised of amounting Rs.1,98,000.00 on 21.05.2007. A portion of amount Rs.1,24,940.00 of the above bill was deposited on 17.05.2007, but in 2012 the Forum ordered on the complaint of Shri Rajeev Singh without going through the material aspects and jurisdiction of the Forum as use of unauthorized electricity is beyond the ambit of the Forum. He order passed by CGRF in Shriv Rajeev Singh case in 2012 is enumerated below:

The complainant has passed on record the chain of property purchased by him on 12.02.2008 from Shri Prem Sablok. It is pertinent to mention here that Smt. Suishila Chaudhary was the fifth erstwhile owner of complete (100 sq. yard) undivided property in question, which she sold out to Sh. Bhuvneshwar Singh

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on 04.02.1998. Subsequently, Sh. Bhuvneshwar Singh on 06.08.2004 sold a portion of this property in question (ie., 55 sq. yards) jointly to Sh. Raju Singh, Sh. Rajan Singh and Sh. Raja Babu Singh and remaining portion of the property (ie., 45 sq. yards) was retained by Sh. Bhuvneshwar Singh. Thus, the property was sub divided into two portions i.e, 55 sq. yards and 45 sq. yards on 06.08.2004. Thereafter, on 11.09.2007 Sh. Raju sold one part of his property i.e, 55 sq. yards to Smt. Prem Sablok, who then sold it to the present incumbent i.e, Sh. Rajeev Singh. After sub-division of the property on 06.08.2004 into 55 sq. yards and 45 sq. yards the two owners of the separated premises (55 sq. yards and 45 sq. yards) applied for a new domestic electricity connection and the respondent provided separate domestic connections to Sh. Raju Singh (55 sq. yards) vide CRN No.1260066077 energized on 06.01.2005 and Sh. Bhuvneshwar Singh (45 sq. yards) vide CRN 1260065099 energized on 15.12.2004. Thus, this is not a case of sub-division of premises where outstanding dues existed on undivided property as per old Regulation (iv) of Supply Code, 2007 and to be paid by sub-divided properties as contented by the respondent company. The natural question that arose was in which of the two premises (one part Sh. Raju Singh (55 sq. yds.) or second part of Sh. Bhvneswar Singh (45 sq. yds.) was the domestic connecton CRN No.1260014806, with meter No.23396337 installed on 31.12.2005 pertaining to?

In view of the above, the respondent company has failed to provide cogent information with respect to the premise, where the regular bill of Rs.166885/- has been accumulated in the name of Sushila Chaudhary vide CA No.101570303 and CR No.1260014806, meter No.23396337. We, therefore, are of the view that the new non-domestic electricity connection be released to the present complainant (Sh. Rajeev Singh) on completion of commercial formalities as is done in a normal case for new electricity connection without insisting for any extra payment at this stage.




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The respondent company shall, however, be free for recovery of dues, as per law after ascertaining the premises with respect to CA No.105570303 (CRNo.1260014806). The case is accordingly disposed off with above observations/directions. After that the respondent filed a writ petition (C) 6983/2013 before the Hon'ble High Court, named BSES Yamuna Power Ltd. Vs. Rajeev Singh. The order passed by the Hon'ble Court on 01.10.2019 is mentioned below:

"The case of the respondent is that Smt. Sushila Chaudhary was the owner of the entire undivided property measuring 100 sq. yards. The said property was somewhere down the line bifurcated around 2004 and one part of the property measuring 55 sq. yards was sold separately and remaining second part of 45 sq. yards was sold to a different owner. Ultimately, the respondent became the owner of the area measuring 55 sq.yards. It is also stated that after sub-division of the property in 2004 respective owners of the separate premises applied for new domestic electricity connection which were duly provided. It is clear from the above legal position that electricity dues against the previous owner or occupant of a premises gets transferred to the new owner/occupant applying for a fresh electricity connection. Learned counsel appearing for petitioner further states that the dispute arose only when the respondent approached for a fresh commercial connection. Respondent states that he owns only property which is of 55 sq. yards. He would hence be liable to pay the proportionate share of the bill in question. In my opinion, there is merit in the plea of learned counsel for the petitioner. It is not disputed that Smt. Sushila Chaudhary was the owner of the full 100 sq. yards of property. The bill in question has also not been challenged in any averments. Accordingly, respondent would have to pay the proportionate charges of the pending bill in the name of Smt. Sushila Chaudhary. The impugned order dated 10.09.2012 is accordingly quashed. Petition stands disposed off."

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In August, 2020, the complainant lodged a complaint before CGRF regarding the transfer of pending dues of amount Rs.75,740/- on his electric connection CA No.101577472. The complainant purchased this property from Shri Rajeev Singh, previous owner of the property who had already deposited the amount of Rs.1,24,940/- and the remaining amount was needed to be recovered. During the course of proceedings before the CGRF when the respondent filed his written statement before the Forum along with Hon'ble High Court order in respect of Shri Rajeev Singh through CG No.42/12, the Forum found that the respondent was not able to produce the proper statement of account nor submitted before the Hon'ble High Court. It is a case of unauthorized use of electricity. The respondent never mentioned about unauthorized use of electricity in their written submissions before the Forum nor to the Hon'ble high Court.

It is pertinent to mention here after the intervention of the Forum the respondent submitted the statement of account. After having gone through the statement of account, it came to our knowledge that the previous complainant as a law abiding citizen had already deposited Rs.1,24,940/- in May, 2007 o the concerned Division. When respondent transferred the amount of Rs.75000/- to the complainant CA No. complainant deposited the amount of Rs.35000/- cash and remaining amount was deposited through cheque to the concerned Division due to fear of disconnection of electricity. After hearing the case on dated 31.08. 2020 the respondent submitted before Forum that they had settled this case. But, both the parties to file an affidavit with settlement letter. As per the settlement letter filed by the complainant the due amount of Rs.75,740/- reduced to Rs.20,317/- and the respondent besides having agreed to return his post dated cheque with remaining amount to be adjusted or refunded to complainant within fifteen days. The complainant also filed an affidavit with above mentioned conditions on dated 06.10.2020:

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- That the complainant approached the Forum regarding the transfer of dues of Rs.75740/-
- That the Respondent amended the amount from Rs.75740/- to Rs.20317/-. Complainant deposited Rs.35000/- in cash and remaining amount of Rs.10000/- by cheque for each month till the realization of the amount, but now the amount is reduced to Rs.20317/-.
- That the Respondent is ready to refund extra amount after deduction of Rs.20317/- from it.

The respondent DGM, Mr. Kuldeep Kumar also filed an affidavit in respect of the same case:

- That the case has been amicably settled between the parties.
- That as per settlement dues of Rs.150786.05 of CA No.101570303 (Disc.), Smt. Sushila Chaudhary had been transferred to two CA Nos. 101555848 and 101577472 on dated 15.01.2020 and same should be reverted to source connection CA No.101570303. Provisional bills to be adjusted as per statement account. Actual dues will be transferred to both target connections after revision. Excess payment made by the consumer will be adjusted to next bills. Advance cheques submitted by consumer be returned as per settlement.

After having gone through all the material facts of the case we found that:

1. The respondent seems to be negligent while dealing with the case since 2012. It is a case of unauthorized use of electricity for which Forum has no jurisdiction to entertain the complaint abinitio i.e, 2012. It is a serious harassment of the complainant and wastage of time and money owing to non submission of proper representation of the case before Forum as well as Hon'ble High Court by the respondent.

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2. When complainant approached the Forum in August, 2020, the case was resolved and settled by the forum after making enormous efforts and taking into consideration all material facts. The extra amount charged from the complainant was refunded to him and saved from mental or physical harassment.
3. The case is settled and the complainant after satisfying with the efforts of Forum, filed a settlement and withdrawal application before the Forum.
4. The Forum allowed the application of withdrawal filed by the complainant.
5. The respondent is directed to be more cautious and vigilant in future while representing the case before Forum.



(HARSHALI KAUR)
MEMBER(CRM)



(VINAY SINGH)
MEMBER(LEGAL)



(ARUN P. SINGH)
CHAIRMAN