

C A No. Applied For
Complaint No. 327/2023

In the matter of:

Ajit SinghComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A Alvi, Member (CRM)
3. Mr. S.R. Khan, Member (Technical)
4. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Neeraj Kumar, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. Swarup Chand & Ms. Shweta Chaudhary,
On behalf of BYPL

ORDER

Date of Hearing: 17th October, 2023
Date of Order: 01st November, 2023

Order Pronounced By:- Mr. Nishat A Alvi, Member (CRM)

1. By way of present complaint, the complainant has sought directions of this forum to OP, to disconnect the electricity supply/connection of CA no. 152677926, installed by OP on 22.11.2018, in the name of complainant's brother namely- Omkar Singh, in premises no. C-1& C-2, Kotla Firoz Shah, Vikram Nagar, Delhi-110002, being this parental property.

(Signature) *(Signature)* *(Signature)*

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2. On notice, OP by filing its reply states that the connection in dispute was installed in the year 2018 without any resistance from anybody, at site. The complainant is brother of registered consumer and both are having property dispute in the subject premises of their father, since expired, without leaving any will. Unless the dispute is decided it can't allow complainant's disconnection application. Reply further states that even this Forum is not competent enough to decide the property dispute in the summary trial herein, since detailed evidence is required to decide the same. Further OP also challenged the locus standi of the complainant to file the present complaint, he not being covered under the definition of the complainant as per provisions of Delhi Electricity Regulatory Commission (Forum for Redressal of Grievances of Consumers and Ombudsman) Regulations 2018.

3. In rebuttal, the complainant by filing his rejoinder, clarifying plea of no resistance, state that at the time of installation of subject connection, he was in U.S.A. Rejoinder further states that his father the owner of the subject property never signed/executed any letter/document in favour of the registered consumer of this connection and connection is installed, by the OP, on the basis of forged and fabricated documents, without any proper verification of the same by it.

Regarding property dispute complainant clarifies that firstly the registered consumer filed a suit no. 126/16 for perpetual Injunction against his father - the owner of this property which was dismissed on 08.06.2016. Thereafter their father filed a suit no. 810/19, against Commissioner MCD and the present Registered Consumer as defendants no. 1&2 respectively, seeking relief against unauthorized construction by defendant no. 2, wherein the Court by an interim

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order, restrained defendant no. 2 from raising further unauthorized construction in the subject property. Appeal filed by registered consumer against this restraint order was dismissed. This suit is still pending and fixed for consideration on 06.11.2023. Rejoinder also denies OP's objection of Locus standi.

4. In support of his respective contentions complainant has placed on record copies of orders passed in aforesaid suits and appeal as well as order passed in Misc application no. 253/19 in Suit no. 810/19 on 09.05.2023, copies of GPA as well as will executed by his father in his favour and in favour of his son respectively. Copies of intimation dated 12.05.2017 to OP, requiring not to grant subject connection and complaint to DGM of OP against wrongful installation of the connection, photos of the property concerned and copy of complaint to Commissioner of Police. Copy of bill issued by OP of said connection.
5. On the other hand OP has placed on record the copies of documents submitted by the registered consumer while applying.
6. Heard both the parties and perused the record.
7. Going through the pleadings, documents and after hearing both the parties question to be considered for deciding this complaint are two - firstly Locus Standi of the complainant and secondly nature of the dispute between the parties and its effect on the powers of the OP to install or disconnect the installed connection.

So far as locus standi is concerned though we find on record the GPA dated 02.09.2016, duly notarized, executed by the owner of the



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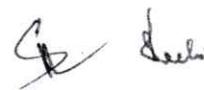
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subject property in favour of the complainant empowering him interalia to present all types of complaints qua this property. But the same shall be of no help to complainant as this GPA has lost its enforceability on the death of its executor on 30.01.2023 itself.

Hence complainant can't file this complaint on 10.08.2023 as such attorney. However, as admittedly the deceased owner, survived with only two sons to his property i.e. the complainant and the consumer, both the persons being his successors are competent enough to deal with present complaint. Consequently complainant has very much locus standi to file this complaint.

So far as dispute is concerned we find basically two suits - one filed by consumer and the other by consumer's father. Going through order dated 08.06.2016 passed in Consumer's Suit; we find that this case was filed seeking relief of Injunction against true owner - his father, claiming to be in valid possession of suit property. Vide this order this suit has been dismissed stating that plaintiff failed to prove valid possession over the property.

8. Going through interim order dated 24.04.2019, we observe that father of consumer filed this Suit No. 810/2019 against consumer-defendant no. 2 thereby requiring for restraint order against him to raise illegal construction in the suit premises. Vide this order defendant no. 2/consumer has been restrained. This restraint order is in force till date as appeal against this interim order has already been dismissed by the appellate court vide its order dated 02.11.2022. On the basis of aforesaid orders ownership is not in dispute claim for possession of said premises by consumer is also rejected by the court. Only dispute to be decided remains of Injunction against consumer for illegal construction by him in said premises. Thus, even if this is considered that there is no property dispute; consumer has failed to

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prove not only his ownership but also a valid possession as required by Sub-Regulation 3 of Regulation 10 of DERC (Supply Code and Performance Standards) Regulations 2017, for new connection.

9. Going through complainant's letter dated 12.05.2017 to OP, we find that this letter is written by the complainant as an attorney of true owner-his father, thereby intimating OP that consumer's claim of possession on suit property has already been discarded by Court. The owner has not given NOC to consumer to get electricity connection either in consumer's name or in the name of true owner, further stating that if any NOC or authority is produced by the consumer for this purpose; the same shall be treated as null and void. By this letter complainant requested not to grant connection.
10. Perusal of another letter of complainant to DG Daryaganj of OP shows that by way of this letter complainant apprised OP of pendency of dispute over the subject property, further complaining that despite complainant's letter dated 12.05.2017 connection in consumers' favour has been installed and asking for action against erring officers.
11. Perusal of the documents of OP we find application for electricity connection consisting of his Aadhar Card which shows his address different than the subject property, House Tax receipt of A-6, family settlement, between consumer's father and his brothers, thereby giving subject property to consumers father, with site plan, authority letter dated 17.04.2009 on behalf of farther of the consumer, authorizing, both of his sons namely the complainant as well as the consumer, to sign family settlement on his behalf, House Tax Receipt 2018-19 showing consumer as owner of subject property. House-tax receipt of 2004-05 of subject property consumer as its owner,

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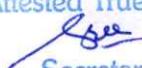
Declaration of consumer for ELCB installation, Affidavit of consumer regarding building height, dues undertaking of consumer, Affidavit stating that ownership proof is not available with him, further affirming that he is absolute owner of subject property and that there is no dispute of ownership regarding this property. Indemnity bond of consumer thereby stating that in case his statements found incorrect or false and OP suffers any loss/action he shall indemnify it and in that event OP is authorized to disconnect his electricity, without any notice.

12. On the basis of above findings we observe that consumer required the subject connection, falsely showing himself not only in possession of this property but also as owner thereof further affirming falsely that there is no dispute of ownership over this property. The only document he files as ownership proof is House Tax Receipt while he himself states that he is not able to submit his Aadhar Card and family settlement.

13. On the other hand we find that prior to the grant of subject connection complainant had already apprised OP that a property dispute is pending adjudication in the Court, qua this property. It was also apprised to OP that owner of the property never issued any NOC or signed any document in favour of the consumer. Hence, electricity connection be not installed not only in the name of consumer but even in the name of owner thereof himself.



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14. This Forum is unable to understand that even in the presence of court orders and prior information of property dispute, provided to OP, how OP failed to scrutinize the documents submitted by consumer, to OP, for getting electricity connection, while it was specifically informed on behalf of owner of the subject premises that he has not issued any such document to the consumer.

15. As per Regulation 10(1)(v) of DERC (Supply Code and Performance Standards) Regulations 2017 only owner and lawful occupant has a right to get electricity connection. Here in the present case consumer got the connection on the plea of lawful occupant only. This claim of the consumer has been set aside on dated 08.06.2016 vide order of dismissal of consumers suit no. 216/16 for Perpetual Injunction aforesaid. This order was duly supplied to the OP prior to installation of this connection. We also find that vide letter dated 12.05.2017 (through attorney - the complainant) owner of this premises had duly informed the OP that with reference to this connection he has not signed any NOC/Document in favour of the consumer. Consequently though there was no ownership dispute but consumer did not fulfill requirement of this clause (v) of Sub-Regulation (1) of Regulation 10 of DERC (Supply Code and Performance Standards) Regulations 2017, to get the subject connection.

16. As per above discussions this Forum is of the considered view that the connection granted to said Omkar Singh, was in complete violation of provisions of concerned Rules and Regulations and cannot be justified. Further the present court proceedings reveal that present dispute is not a dispute of ownership but against, illegal construction, which is stayed since 2019 and the same can't be made a

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ground for not entertaining the present complaint and/or legality of the electricity connection installed by the OP, in the name of one Omkar singh on 12.11.2018 vide CA no. 152677926 in premises no. C-1 & C-2, GF, Vikram Nagar, Kotla Firoz Shah, Delhi-110002

ORDER

Complaint is allowed. The OP is directed to disconnect the electricity connection installed by OP, in the name of Sh. Omkar singh vide CA no. 152677926 in Ground Floor of premises no. C1 & C2, Kotla Firoz Shah, Vikram Nagar, Delhi -110002.

No order as to cost.

Compliance report within 21 days of receipt of this order be filed by the OP in this Forum.

File be consigned to Record Room.

ON LEAVE
(H.S. SOHAL)
MEMBER

Deekh
(NISHAT A. ALVI)
MEMBER (CRM)

S
(S.R. KHAN)
MEMBER (TECH.)

V
(P.K. SINGH)
CHAIRMAN

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