

**Before Maharashtra State Electricity Distribution Co. Limited
Consumer Grievances Redressal Forum, Pune Zone,
925, Kasabapeth Building, I Ind flr. Pune-11**

Case No. 23/2012

Date: 17/10/2012

**In the matter of
Shri. Haresh T. Bhatia
74, Satnam Appartment.
Cuffe Parade, Mumbai-5**

- Complainant

V/S

M.S.E.D.C.L. Rastapeth Division

- Opponent

Quorum

Chair Person	Shri.S.D.Madake
Member/Secretary,	Shri.B.M.Ivare
Member	Shri.Suryakant Pathak

1) Shri. Haresh T. Bhatia filed the present complaint, being dissatisfied by the order of Internal Grievance Redressal Forum dt.14/08/2012

2) Complainants case in brief is as follows.

Complainant claims to be the owner of Flat No.5, B-wing Siddharth Castle, Lulla Nagar, Kondava Road Pune-40. The said flat is in Siddharth Castle co-operative Housing Society. The said property is not transferred by any modes of transfer to any one.

3) According to complainant, the said property was disposed of by third person by cheating him. The complainant filed civil case for the said property. The civil litigation is pending before the civil court Pune vide spl. Civil suit No. 1295 of 2008. The Decree –Holder in the said case filed Execution- petition for execution of the decree. The complainant

filed application under Rule 99 of 0.21 of code of civil procedure on 14/02/2012. The court passed order dt. 02/05/2012 "put up for order till then D.H. to maintain status quo not to create 3rd party interest."

- 4) According to complainant he moved application requesting the MSEDCL not to release electricity supply to Mr. Palan as he is the owner of the property and his property is disposed of by practicing fraud and making bogus documents.
- 5) Complainant is seeking mandatory injunction directing the MSEDCL to disconnect the electricity supply which was illegally given to Mr. Palan who tried to grab the property of complainant on the basis of false documents. It is alleged that injustice is caused to complainant , due to the act of MSEDCL by giving electricity supply to wrong and unauthorized person irrespective of the fact that time and again requests were made along with documents showing that Mr. Palan is not entitle for getting electricity supply as per law.
- 6) According to MSEDCL all the documents produced by Mr.Palan were considered and by following the norms, electricity supply was given to Mr. Palan on 09/05/2012.
- 7) On Pleadings of the parties the point that arises for our consideration is—

Whether the complainant is entitled for mandatory injunction, directing to the MSEDCL to disconnect the electricity supply given to Mr. Palan.

Our finding is in the negative.

REASONS

- 8) Heard both sides. The complainant argued at length on various points on 26/09/2012. The complainant submitted written argument in support of oral submissions. The complainant has given detail information of the steps taken, regarding informing to the MSEDCL for not releasing the electricity supply in favour of Mr. Palan. Mr. Bhatia sent Email on 28/02/2012 informing MSEDCL that fraudulent

person may approach for new connection in the said premises. Mr. Bhatia sent several letters from time to time to MSEDCL.

- 9) Mr. Bhatia submitted that Mr. Palan was directed to maintain status quo for not creating third party interest. He submitted that MSEDCL is a third party and interest of MSEDCL has been created by providing electric connection after the status quo order was passed on 02/05/2012, as the date of release of connection is 09/05/2012 . Admittedly MSEDCL is not a party in either civil suit or execution proceeding.
- 10) Mr. Bhatia argued that MSEDCL has given electricity supply illegally and MSEDCL representative submitted that the supply was given as per the norms and based on the documents filed with application by Mr. Palan. It is submitted that before giving the connection all documents of title were considered and opinion of legal advisor was obtained. Further it is stated that Mr.Palan was directed to give undertaking on stamp paper stating that in case the court decided the matter against him, then supply would be disconnected. Accordingly Mr.Palan gave undertaking to MSEDCL.
- 11) The civil and criminal cases are pending between Mr. Bhatia and Mr. Palan in courts. The legality and validity of the documents produced before civil and criminal courts is subject to the scrutiny before the respective courts. The documents on record show that Mr. palan filed criminal case No. 24/2006 under section 420, 403 and 406 of IPC. The court issued process. Mr. Bhatia challenged the order of issuance of process vide criminal revision No. 460/2007 which came to be dismissed by Hon'ble sessions court. Mr. Bhatia filed W.P. No. 423 of 2018 before Hon'ble High-court and stayed the criminal case No. 24/2006. The execution petition is pending before Hon'ble civil court. There is no any order of civil court to the effect that Mr.Palan has illegally taken possession of the flat. Therefore at this stage it would not be proper to direct MSEDCL to disconnect the supply given to Mr.Palan.

- 12) On careful consideration of the facts and circumstances referred above we are of the opinion that relief of mandatory injunction as prayed by complainant is beyond the scope of this forum. Critical appreciation of oral and documentary evidence is necessary to decide these issues. The relief claimed is not within the ambit of word "Grievance" as defined in Clause (C) of definition clause in Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006.
- 13) Mr. Bhatia is not a consumer of MSEDCL in the present case. Hence the case is not within the ambit of "Grievance", so no relief as prayed can be granted by this forum. We appreciate the co-operation given by Mr.Bhatia and officials of MSEDCL for deciding the present case.

ORDER

Complaint is disposed off with no order as to cost.

B.M.Ivare,
Member/Secretary

Suryakant Pathak
Member

S.D.Madake
Chair Person

Date: 17/10/2012