

**BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
AURANGABAD ZONE, AURANGABAD.**

**Case No. CGRF/AZ/AUR/U/656/2017/49
Registration No. 2017100010**

Date of Admission 03.10.2017
Date of Decision 28.11.2017

Shri Vasant Panditrao Deshmukh : COMPLAINANT
(Bill in name of Late Shakuntala
Vyankatrao Deshmukh)
Arihant Nagar,
Aurangabad 431201.
(Consumer No. 490011067180)

VERSUS

The Executive Engineer (Admn) : RESPONDENT
Nodal Officer,
O/O Superintending Engineer,
Urban Circle, MSEDCL, Aurangabad.

Shri Sunil Vasantrao Deshmukh, : OBJECTOR
H. No. K-14, Arihant Nagar,
Behind Akashwani, Aurangabad.

Shri Kundan Vasantrao Deshmukh, : OBJECTOR
Plot No. A-66, Nathnagar,
Behind Sindhi Colony, Aurangabad.

CORAM

Smt. Shobha B. Varma,	Chairman
Shri Laxman M. Kakade,	Member Secretary
Shri Vilaschandra S. Kabra	Member.

CONSUMER GRIEVANCE REDRESSAL DECISION

1) The applicant Shri Vasant Panditrao Deshmukh (Bill in name of late Shakuntala Vyankatrao Deshmukh), Arihant Nagar, Aurangabad is a consumer of Mahavitaran having (Consumer No. 490011067180) The applicant has filed a complaint against the respondent, the Executive Engineer i.e. Nodal Officer, MSEDCL, Urban Circle, Aurangabad under Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulation 2006 in Annexure (A) on 03.10.2017.

2) The present complaint is filed under Rule 6.4 MERC Regulations 2006 (CGRF & Ombudsman) challenging the order dtd. 20.09.2017 passed by IGR Cell in complaint application No. SE/AUC/IGRC/22/Tech/2691 for change in name in respect of electric connection in the name of deceased Shakuntalabai Vyankatrao Deshmukh bearing consumer No. 490011067180.

The facts in brief are as under :

3) The complainant Shri Vasant S/o Panditro Deshmukh is husband of deceased Shakuntalabai; Shakuntalabai died on 24.03.2010. The House bearing No. K-14 behind Akashwani, Aurangabad was and is standing in the name of Shakuntalabai. An electric connection of aforesaid consumer no. is also installed in the said house in her name.

4) According to complainant, H. No. K-14 of Arihant Nagar is the exclusive property owned by him, it being his self acquired property. According to him the said property is required to be protected under

section 21 of the welfare of parents and senior citizen act 2007. It is submitted by him that his sons and daughter in law had no legal rights in the property. His name is required to be substituted to the electric connection standing in the name of deceased Shakuntalabai; That he has submitted form "U" for change the electric connection in his name and deposited necessary fees and documents and on compliance his name is substituted in the name of Shankuntalabai. Accordingly, change in name is done and electric bills were issued from January 2017 to April 2017. However, again in the month of May 2017 on considering objections of his sons Sunil and Kundan, his name was cancelled and electric bill issued in the name of deceased Shakuntalabai, therefore he has submitted complaint before IGR Cell, Aurangabad and the members of IGR Cell ordered to continue issuance of the electric bill in the name of Shakuntalabai with directions to get succession certificate from the applicant and then to change the name accordingly. Therefore this petition.

5) The respondent no. 1 has filed say dtd. 30.10.2017 and submitted that there is no cause of action arise for filing the petition, it is contended that the connection was standing in the name of Shakuntala Vasantrao Deshmukh and application was moved by the petitioner to change of his name, however the son & daughter in law of the petitioner had been to the office of the respondent and have raised their objection for mutation in name of petitioner, considering their objection again the name of deceased Shakuntala was recorded and the petitioner was asked to obtain

succession certificate from the court. The order of IGR Cell is legal and correct and prayed for dismissal of the appeal.

6) Considering the objections raised by the sons of petitioner their say is also called and Sunil has submitted his say on 14.11.2017 and 21.11.2017, it is submitted by him that the House A-14 is standing in the name of deceased Shakuntala, his mother. That after her death the entire property of the family was partitioned, the present house being purchased on bond paper, hence oral partition was effected. That he is residing in the house along with his family and is regularly paying electric bill. That the petitioner Vasant has performed second marriage after death of Shakuntalabai. There is no succession certificate obtained by him from the Court. That the House tax, water tax and electric tax of the disputed house is paid by him. That supply of electricity is an essential service and therefore till the disputes are going on, the electric connection may be continued in the name of Shakuntalabai.

7) Objector Kundan, another son of petitioner has filed his say dtd 10.11.2017 and submitted that since the year 2005 the petitioner is residing at Satara, Aurangabad his address is Gut NO. 143, Plot No. 172 Ashiad Colony, at Balapur, Post Chikalhana, Beed bypass near Guru Lawns Aurangabad, it is alleged that the petitioner joined hands with municipal officers and got his name entered on the record of municipality in respect of the suit house by suppressing the names of legal heirs. Legal heirs left behind Shakuntala are himself, Sunil, daughter Manisha Deshmukh and the Petitioner. Since the year 1994, Sunil one of the legal heir of

Shakuntala and who is disabled is residing in House No. K-14 and paying electric bill & house tax and water tax for so many years. Entry in the name of petitioner does not confer ownership to him; The petitioner suppressed the fact of dispute arose in the family, about House No. K-14. That he had demanded another electric connection but that application was rejected, therefore to reject the application and to issue bill in the name of Sunil.

8) We have perused the petition and say and the documents on record. We have heard petitioner, Addl. Executive Engineer, Shri Kumawat (on authority of Nodal Officer), Objector Sunil through his wife Vijaya (on authority) & Kundan Deshmukh.

9) Following points arise for our determination with our finalizing thereon for the reasons to follow:-

Sr. No.	POINTS	FINDINGS
1)	Whether the name of petitioner be substituted in respect of electric connection of consumer No. 490011067180, standing in the name of deceased shakuntalabai?	No
2)	Whether the order passed by IGR Cell is legal and correct?	Yes
3)	What Order?	As per final order

REASONS

10) **Points No. 1 and 2** – The fact that house No. K-14 of Arihant Nagar, Aurangabad is standing in the name of wife of petitioner namely

Shakuntalabai is not disputed. That Shakuntabai died on 24.03.2010 and the death certificate is also produced by the petitioner on record and it is not disputed. The fact that Shakuntalbai left behind her legal heirs as follows :-

- 1) Petitioner Vasantao (Husband), 2) Sunil (Son), 3) Kundan (Son), 4) Manisha (Daughter) is also not in dispute between the parties.

11) The petitioner has admitted the fact that, after death of Shakuntalabai, he has performed second marriage and is residing with his second wife at Balapur, post Chikalhana, Aurangabad. In this respect Kundan has produced on record, certificate about residence of the petitioner issued by Tahsildar Aurangabad dtd. 10.12.2010 certifying that before five years of the issuance of certificate, petitioner is residing at Satara, the election card of the petitioner is also produced on record showing his address of Balapur, thus it is evident that petitioner is not residing in the disputed house where the electric connection is installed.

12) In order to prove his ownership the petitioner has produced on record municipal tax receipt dtd. 18.05.2016 bearing No. 3262 wherein his name is entered in respect of House No. 14 by mutation, then another tax receipt dtd. 09.06.2016 & 16.02.2017 showing the name of petitioner in substitution of name of Shakuntalabi. On the other hand, objector Sunil has produced on record municipal tax receipt No. 9251 dtd. 09.05.2017 and municipal receipt no. 1378 dtd. 13.04.2015 showing payment of taxes by Sunil up to March 2016, then municipal receipt No. 7679 for the period up to 2018 payment of taxes made by Sunil. Sunil has also produced on record copy of consent letter dtd. 02.03.2017 which is in respect of

partition of the house no. K-14. On the basis of this letter it is claimed that the suit house is partitioned with equal share between Sunil & Kundan with consent of petitioner.

13) Prima facie the documents placed on record are not sufficient to locate self acquisition as propounded by the petitioner. In that event petitioner, Kundan, Sunil & Manish are prima facie said to be legal heirs left behind deceased Shakuntala. So far change of name as per Rule 20 of Conditions of supply based on the MERC (Electricity Supply Code & other conditions of supply) Regulations, 2005 regarding change of name in respect of electricity connection with consent all legal heirs, it is required to be transferred in the name of one of the legal heir.

Rule 20.4 speaks - In the absence of such consent letter any of the following documents to establish that the transferee if owner / lawful occupier of the said premises, previously owned / occupied by the transferor;

- a) Proof of ownership of the premises;
- b) Proof of lawful occupancy of the premises;
- c) In case of partition, the Partition Deed;
- d) In case of purchase, the purchase Deed or Agreement of Sale;
- e) Succession Certificate;
- f) If the premises are acquired through public auction, allotment letter from competent authority.

Rule 20.5 Speaks – In case the transferor has more one legal heirs / successors and the transferee being one of the legal heirs / successors, consent letter in the standard format / an affidavit from all the remaining legal heirs / successors clearly stating their no objection for transfer of

electricity connection in the name of the transferee or the new owner / occupier of the said premises.

14) Considering the municipal tax receipts, occupation, it appears that petitioner, Kundan and Sunil & Manisha are being legal heirs entitle for substitution in their as prima facie owners. Out of them Sunil is in addition lawful occupier of H. No. K-14. The case is not covered under Provision at Maintenance & Welfare of Parents & Senior Citizen Act 2007, as claimed by the petitioner. So the copy of judgment of criminal writ petition No. 1791/2016. Santosh Surendra Patil V/s Surendra Patil is inapplicable in the present case.

15) Considering the above quoted rules, since name at petitioner is objected by Kundn & Sunil, it is legal & proper to continue electricity connection in the name of deceased Shakuntalabai, till obtaining succession certificate by any one of the party deciding their rights of inheritance behind Shakuntalabai.

16) After all, nature at the property & inheritance right of the parties are required to be decided by Civil Court. The dispute is ltd. to the extent of recovering charges from the concern, who is utilizing electricity supply.

17) It is transpired that initially when the application in the form U' Was taken from the applicant proper enquiry was not made by the concerned officer and proper procedure was not followed while changing the name of the petitioner and therefore bill for the month of January 2017 to April 2017 were illegally issued in the name of petitioner, however the same mistake was corrected in the bill of may 2017 by cancelling the name of petitioner and continuing the name of deceased Shakuntalabai on the said electric bill Under the circumstances, it is proper to continue the name of

deceased Shankulatabai, till obtaining the succession Certificate from the Parties by the Civil Court.

18) As such, We answer Point No. 1 in the negative and Point No. 2 in the affirmative, it is found that the order passed by IGR cell is legal and correct, however the said order requires some modifications as follows :
Hence in reply to Point No. 3, We proceed to pass following order.

ORDER

- 1) Petition is hereby dismissed with no order as to cost.
 - 2) Order of IGR Cell though is confirmed but modified as follows :
 - A) Till production of succession certificate by the petitioner or objectors the bill of electric connection in respect of consumer No. 490011067180 be issued in the name of deceased Shakuntalabai Deshmukh.
 - B) Disciplinary action be initiated against the concern Officer/ Staff, who have not followed procedure for change of name.
- Pronounced on 28th November 2017.**
- 3) The compliance be reported within 30 days.

Sd/-
Shobha B. Varma
Chairman

Sd/-
Laxman M. Kakade
Member / Secretary

Sd/
Vilaschandra S.Kabra
Member