

(A Govt. of Maharashtra Undertaking)

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Consumer Grievance Redressal Forum

“Vidyut Bhavan”, Gr. Floor,

L.B.S.Marg,Bhandup (W),

Mumbai – 400078.

REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/

Date

Case No.106/2016

Hearing Dt. 18/1/2017

In the matter of prohibition of permanent disconnection off supply to residential premises of applicant

Smt. Pramila Mohan Gawai
R.No -08, Sr. No-197,Sawami
Sai Nagar Near Ajantha Hal
Kharegaon Kalawa(W) Thane
Vs.

- Applicant

M.S.E.D.C.Ltd., Kalwa, Sub Division

- Respondent

Present during the hearing

A - On behalf of CGRF, Bhandup

- 1) Shri. Anil P. Bhavthankar, Chairperson, CGRF, Bhandup.
- 2) Shri.S.B. Bhalshankar, Member Secretary, CGRF, Bhandup.
- 3) Dr. Smt. Sabnis, Member, CGRF, Bhandup.

B - On behalf of Appellant

- 1) Pramila Mohan Gawai -----
- 2) Bankar Gotis

Consumer
Consumer representative

C - On behalf of Respondent

- 1) S.S.Ahirrao Addl. Executive Engineer, Kalwa sub division
- 2) Dnanjay Pokade AE Kharegaon

Consumer No.000028425589

1. Above named applicant filed grievance against the respondent utility alleging that she is occupying the premises above named address and the said room was purchase by her by execution of document executed by Nilambari Satysagar Rao in her favor on 20.02.2015 since she is in occupation of premise. Respondent utility on 26.02.2015 at the instance of Nilambari Satysagar Rao disconnected the supply is legally / thereafter above named consumer Smt. Pramila Gawai requested for new connection on 03.03.2015 objection raised by earlier owner of the premises Nilambari Satysagar Rao and the supply was disconnected on 3.03.2015.
2. Thereafter she gave fresh application for reconnection of supply in her name on dated 04.03.2015. Original owner raised objection for new connection she filed grievance before IGRC raising objection for new connection. IGRC register case No. 14/2015 on dated 03.07.2015 opportunity given by the consumer only and the order came to be pass on 21.08.2015 by IGRC giving direction to utility as per letter dated 26.02.2015 the document to be verified and the supply which was disconnected should be reconnected in the name of consumer and verify the terms and condition number 4 and also gave direction to file affidavit.
3. This consumer files grievance form no. 'A' being apprehension of permanent disconnection of supply obtained by in her name by application dated 04.03.2015 and requested to the Forum not to disconnect the supply for any reason not valid raising objection by third party. After filing this complaint in Schedule 'A' on dated 09.11.2016 notice was issued to the respondent utility. After service of notice utility appeared and filed reply on date 29.09.2016. Utility submitted that the application filed by original occupier Nilambari Satysagar Rao on 21.08.2015 the intimation was given to the present consumer to produce the document for verification. It is submitted by utility

that no proper opportunity was given to utility to file their reply before IGRC as the matter was referred to legal opinion for seeking advice and thereafter they received legal advice and they accordingly acted being notified that property dispute between Nilambari Satysagar A Rao and present consumer Smt. Pramila Gawai is taken place. This consumer filed complaint even in the police station. The earlier disconnection was made at the request of original consumer connection stands in her name now the document is verifying the present consumer Smt. Pramila Gawai is in occupation of the premises. Respondent utility forward document submitted by consumer for perusal of this Forum. Respondent utility submitted that necessary and proper order may be passed after verification of those documents.

4. After perusing the document filed by consumer Kahridi khat dated 02.03.2009, affidavit filed by consumer before utility letter issued by Thane corporation dated 21.10.2015, tax receipt dated 19.05.2014, copy of NC 2724 dtd.29.09.2015 complaint address to senior Police Inspector Kalwa police station Thane dtd.16.10.2015 and request letter address to Add. Executive Engineer Kalwa sub division, utility letter filed dated 18.10.2016 address to consumer and recent bill in the name of consumer for my perusal. I have considered the grievance of consumer and also perused the document.

After perusing the rival contention following points arose for our consideration to which I have reordered my findings to the point further reason given below

5. It appears that till 20.02.2015 the connection was stand in the name of Nilambari S. Rao who appears to be previous owner of premises. It is contention of consumer Nilambari S. Rao executed sale deed in her favor

copy of sale deed filed on record. I have perused the said document, it is pertaining to note that whether the sale deed executed in the format about the property and its legality this Forum has no jurisdiction to consider legal validity of document. The terms and condition as per SOP Regulation for transfer and change of electricity connection prima-facie valid document and legal occupation is only to be pin the documents consider for limited purpose where at page no 3 para No. 08 original owner Nilambari S. Rao given no objection and consent for transfer of name of connection in the name of purchaser Smt. Pramila M. Gawai since 2009 the premises is in occupation of this consumer.

6. It appears that on 03.03.2015 the supply of the premises was disconnected by utility the objection is raised by occupant and it is notice that there was serious family Property dispute the said dispute is required to be establish by competent Civil Court.

7. It appears that the complaint made to IGRC by Nilambari S. Rao only consider by IGRC as she is previous occupant of premises but all details of the dispute of premises before actual disconnection effected no proper care is taken by utility and ultimately on 03.03.2015 the supply was disconnected. Therefore the present occupant Smt. Pramila M.Gawai has no other choice so apply for new connection. She executed legal and proper document required for change of new connection in her name and accordingly the change of electricity connection transfer in her name by utility name since 04.02.2015 the supply stands in her name and she is paying regular bill. At present consumer having strong apprehension that act of third party name resulted in further disconnection and therefore she made application to this Forum challenging the decision of IGRC and also raised the dispute.

8. On various date 16/11,28/11 and 14/12 also last hearing 18/1/22014,I gave opportunity to consumer and representative to submit their grievance. I also gave opportunity to respondent utility and after verification of document and hearing of the dispute. I found the utility already acted on the application of consumer and reconnected the supply to the premises since 04.03.2015 all the effort made through Nilambari Satysagar Rao for disconnection cannot sustain in law as the supply which is connected on legal and valid reasons after following due procedure of law cannot be discontinued unless legal and valid permitted. The objection raised by Nilambari S. Rao. I did not find any reasons to hear the side as they are not consumer within the definition of Section 2 (a) Electricity Act. 2003 even no representation and objection directly submitted by Nilambari Satysagar Rao before this Forum.
9. I have prima-facie found the present consumer Smt. Pramila Mohan Gawai Validly acquired connection in her name of the premises. Unless there is decision from the competent court about declaring the possession of else legal and valid no threat of disconnection could be possible except legally permissible by utility for nonpayment of bill arrears.
10. Further order in consumer complaint 106/2016 during pendency of hearing and passing final order intervener original consumer Nilambari Satysagar A Rao filed objection before this Forum through authorize by her husband as representative who appeared and filed application for raising objection on the ground that original consumer was not heard as IGRC pass order in his favor and not complied properly by utility order pass by IGRC on 21.08.2015 in case No.14/2015. He also objected the submission made by present consumer Smt. Pramila Mohan Gawai stating that all the procedure followed for giving connection to her on the premises which is own by him he is having title and valid document of municipal corporation and other relevant

document in his favor objector filed all the necessary document and nature of his objection . He also alleged that utility after passing the judgment of IGRC all doing favor in favor of present consumer Smt. Pramila M. Gavai and she is not owner of the premises.

11. He submitted to the Forum that the connection which is obtained by present consumer Pramila M. Gavai by false representation and showing incorrect fraudulent and false document and succeeded to obtained connection from utility. He also objected appeal before this Forum filed by present consumer Pramila Mohan Gavai as the appeal is filed beyond period of 2 month from the date of decision o IGRC. He made efforts to approach to the Forum earlier by filing application before Public Relation Officer at that time no appeal was filed by this present consumer. On the point of limitation I have consider the objection the letter issued on 18.10.2016 by utility to the present consumer informing that as per the decision of IGRC the verification of the document is required and utility wanted to verify the document and also intended that as per the decision of IGRC the supply to the consumer No.00024425589 was required to be disconnected from 24/10/2016. After receiving the said letter present consumer against approach to the utility and submitted all relevant document which is verify by utility other objection raised by previous consumer N.S. Rao cannot be considered by the Forum as supply in her name was discontinued at her own request and thereafter the present consumer filed application for obtaining new connection in her name.

12. I have again re -verified and access all the document and proceeding initiated on the objection of original consumer it appears that the decision of IGRC is effected by the strong objection and when all the proceeding was initiated opportunity to this consumer before IGRC for hearing was not given

even reply of utility was not taken on record nor any positive submission was heard on his ground the decision of IGRC is not on merit and without following principle of natural justice. I found that whenever the order of disconnection of supply is intended against a person likely to be adversely effected opportunity must be given to such person. Even further the supply was not disconnected for arrears of outstanding bill.

13. This Forum considered all the point raised by previous consumer N.S.Rao through her husband. It appears to the Forum that very serious dispute about the title of property and there relation is brother and sister. As the present consumer filed reply on the objection on dated 17.01.2017 and submitted that after execution of alleged document of sale deed by N.S. Rao before the authority of Notary executed and thereafter the said document was acted upon by her and on the basis of the said document she obtained gas connection /ration card / Aadhar card/Voter card/pan card on the same address and there are various document in her favor submitted and relied by her . It is further appear that she even had paid the Municipal taxes of the premises though the property stands in the name of N.S. Rao. The tax receipt is filed on record dated 30.09.2014 for the year 2014-2015 she filed other document extract of NC complaint and copy of complaint given to Kalwa Police station regarding the criminal action against each other. On this background this Forum comes to conclusion that serious dispute between the parties about the title over the properly and objection to the document executed as produce by this consumer. Whether it is genuine and fraud and otherwise it is to be decided by competent Court

14. For the purpose of whether the present consumer entitled to continued supply on the premises to my view as this consumer enter into premises lawfully much prior to 2009 and having possession on the premises since for

the period of last 12 years only to help the objector as desire to dispossess to her without due process of law the supply cannot be disconnected. In this circumstances the present consumer relied and filed judicial order in *W.P. No.2602/2010* earlier order pass by this Forum in consumer complaint No.55/2015 *Smt. Sujata Chavan Vs MSEDCL* and other copy of order of ombudsman in representation No.54/2015 in case *Mahalaxi Nagri Seva Sahakari Sanstha Ltd Vs MSEDCL* dated 07.08.2015 and perusing legal provision entitlement of objector to pray for disconnection of supply is not on valid legal and proper ground. Hence the objection raised by previous consumer N.S.Rao cannot be considered by this Forum. It is to be notice that the supply given by utility cannot be disconnected merely raising objection due to dispute over that titled between the party and therefore this Forum not inclined to considered the objection received at this stage and continue proceed the order as follows.

ORDER

1. Consumer complaint No.106/2016 is allowed.
2. The power supply given in the Name of Pramila Gavai is held legal and proper after following do procedure.
3. The respondent utility shall not disconnect the supply unless objector Nilambari Satysagar Rao obtains the decision of title and interest of ownership from competent Court.
4. No order as to the cost.

Both the parties should be informed accordingly.

Proceeding close.

The compliance should be reported within 45 days.

The order is issued under the seal of Consumer Grievance Redressal Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, Bhandup.

Note:

1) If Consumer is not satisfied with the decision, he may file representation within 60 days from the date of receipt of this order to the Electricity Ombudsman in attached "Form B".

Address of the Ombudsman
The Electricity Ombudsman,
Maharashtra Electricity Regulatory Commission,
606, Keshav Building,
Bandra - Kurla Complex, Bandra (E),
Mumbai - 400 051

2) If utility is not satisfied with order, it may file representation before the Hon. High Court within 60 days from receipt of the order.

I Agree/Disagree

I Agree/Disagree

**DR. ARCHANA SABNIS
MEMBER
CGRF, BHANDUP**

**ANIL P. BHAVTHANKAR
CHAIRPERSON
CGRF, BHANDUP**

**RAVINDRA S. AVHAD
MEMBER SECRETARY
CGRF, BHANDUP**