



(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/136/0054

Date :09.05.2017

Case No. 139/2017

Hearing Dt.22/03/2017

In the matter of new service connection and relief of not to disconnection of

supply till eviction due process of law

Mr. Mahesh Zagade

Flat No 104, Bhoomodara Society, Sector 8, New Panvel

-

Applicant

Vs.

M.S.E.D.C.L. Pavel Sub Division

- **Respondent**

Present during the hearing

A - On behalf of CGRF, Bhandup

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

B - On behalf of Appellant

- 1) Shri. Mahesh Zagade – Consumer

C - On behalf of Respondent

- 1) Shri.Jagdish Bodke, Addl.Executive Engineer, Vashi Circle.

Consumer No. 028510783044

1. Above named consumer filed this complaint against the responded utility because the respondent utility refused to grant new connection to the premises occupied by him on application made to Panvel Sub Division dated 03.02.2017. Consumer submitted that he has already filed complaint against the Addl. Executive Engineer Shri. Jagdish Bodke. He has attached the copies of application given by Shri. Sudarshan Jadhav, complaint filed in police station, complaint copy, Whatsapp SMS, letter issued by Add. Executive Engineer date 27.06.2016, 06.05.2016, information received under RTI date 21.08.2016, application filed by Shri. Bodkhe on 30.05.2016, application for new meter connection dated 05.07.2016 and NOC issued by society in favour of previous owner Shri. Naresh Wadiya.
2. According to consumer, he is in occupation of flat since last 7 year and there is no dispute filed in civil court.
3. Previous owner of the said premises, Shri. Naresh Wadiya has moved an application before the responded utility on 26.1.2015 requesting disconnection of supply to his premises.
4. According to consumer Shri. Naresh Wadiya wants to evict him without due process of law and with **help of**Consumer also informed that the said flat was sold to Shri. Shilendra Jagnade and Sudrashan Jadhav. Against the said transaction, he has lodged complaint with the police station khandeshwar on 04.11.2016. Consumer informed that on the application filed by Naresh Wadiya for disconnection of supply, Additional Executive Engineer Shri. Jagdish Bodkhe issued him notice for disconnection. Thereafter he approached Additional Executive Engineer and requested him not to disconnect the supply without any order. Even then on 15 Feb. 2016 the responded utility's officer disconnected the supply. Thereafter the incident of

alleged assault took place; against which consumer already filed complaint in police station against this person in 24.10.2016.

5. Consumer informed that there is civil dispute about possession of the flat. The new purchasers- Shailendra Jaganade and Sudarshan Jadhav have knowingly purchased the flat and are trying to take forceful possession. Consumer informed that earlier owner Shri. Masavkar gave possession of the flat in the year 2009 and after a period of 4 months, i.e. on 28.04.2004 Naresh Wadiya entered into a transaction with Masavkar (when he had no lawful ownership). The present consumer is in premises since last 7 years. Against this dispute lawyer of consumer has given notice on 14.2.2016. despite this fact, new purchaserd Shri. Shailendra Jagnade and Sudarshan Jadhav wanted to take forceful possession by given threat and now trying to disconnect the supply with a sole intention to cause cause harassment. 6.
6. Consumer relied on judgment on Hon'ble High Court passed in various cases regarding disconnection of supply.
7. Consumer prayed that the said service connection being an essential supply, the application filed by original owner for disconnection cannot be entertain.
8. The disconnection notice issued by respondent on 15.02.2017
Being aggravated by the said order and notice of disconnection this consumer approached this Forum directly and filed Form No. 'A' on 17.02.2017 for granting new connection in his name and not to disconnect the supply on the ground that he initially raised the dispute before Nodal officer; but his dispute was not solved within the period of 2 months.
9. After filing the said complaint notice was issued to the respondent utility. After service of notice respondent utility appeared and filed reply on 07.03.2017. It is contention of responded utility that the present consumer Shri. Mahesh

Chandrakant Zagde is in illegal possession of premises situated on given address .According to utility lawful owner is Shailendra Jagnade Jadhav and at present connection is in name of Shailendra Jagnade and Sudarshan Jadhav bearing consumer No.028510783044. The connection was release on 25.08.2008 for the purpose of residential in the use of Shri. Masavkar and latter on it was transfer to Shri. Wadiya as per registered document No.05352 of 2010, copy of the said transfer document filed by responded utility. latter on the property transfer in the name Shri. Shailendra Jagnade and Surdarshan Jadhav as per registered document No.0191/2016 copy of the said document is attach by utility. Thereafter consumer Mr. Wadiya applied for disconnection of supply vide letter 26.10.2015 and Mr. Jagnade vide letter 11.03.2016. After receiving the said letter by utility notice was issued to the occupant Shri. Zagade by office vide letter No.625 dated 27.04.2016 in that letter the occupant Shri. Zagade was directed submit ownership document to the office on failure the supply will be disconnected. Respondent utility further submitted that present applicant illegally occupation and applied for new connection on 05.05.2016 on the same premises as there is already present being disputed matter case was forwarded to law officer Vashi and legal opinion was sought. As per direction of law officer occupant Zagade was directed to produce lawful documents about his ownership or approach to the competent civil court and bring appropriate order within the period of 6 months and in case of failure the power supply will be disconnected. Responded utility submitted that ownership of present applicant Shri. Zagade is not seen from the record by our office and as per legal advise the connection should not be release .As applicant Mahesh Zagde is illegal occupant and legal opinion was sought the supply was not disconnected till the direction of six month notice was given to occupant Mahesh zagade to

produce the documents of ownership by office letter AEE/PNL-CITY/T/231 Dated 20.2.2017 and thereafter applicant Shri. Mahesh Zagde fail to comply the document. Responded utility officer submitted that all allegation made by the applicant are not co-related to the dispute as the all this allegation are not in accordance with law. Responded utility pray for dismissal of application this consumer and respondent utility may be allow to disconnect the supply of this premises.

10. The consumer filed all necessary document responded utility filed notice dated 20.02.2017 directing applicant to produce the document within the period of 6 months on failure the supply will be disconnected . Respondent utility also filed copy of legal opinion and correspondence and various application made to the responded utility office. I have minutely perused all the document and nature of litigation and complaint raise in this case.

11. After perusing the rival contentions of consumer and respondent utility, following points arose for our consideration to which I have recorded my finding to the point further reasons given below

- 1] Whether applicant shri. Mahesh zagade entitled for new connection.
- 2] Whether service connection can be continued for illegal use and occupation of applicant.
- 3] Whether consumer is entitled for any relief.

Reasoning

12. I have given opportunity to the consumer and responded utility officer. I have also given opportunity to objector and purchaser of the property Shri.

Shailendra Jagnade and Sudarshan Jadhav. They appeared and also filed their documents and made submission .Admittedly the date of connection of this supply was made initially in the name of Kailas enterprises date of connection is 25/01/2008. According to responded utility thereafter the said connection was transfer in the name of Naresh Wadiya and thereafter Shri. Naresh Wadiya sold premises by registered seal deed to Shalindra Jagnade and Sudarshan Jadhav.

13. It is contention of present applicant that Shri. Masavkar executed agreement in his favour and handed over the possession and the copy of agreement of sale was produced by present applicant. I have gone through the said document. The said document is dated 23.04.2010 therefore the original disputes since to be in between Shri. Masavkar and Naresh Wadiya role of society the share certificate transfer in the name of Shri. Masavkar. However the society also given letter informing that no objection certificate cannot be issued and thereafter the alleged dispute arose in respect of Flat/property between Masavkar and Naresh Wadiya purchaser Shri Shailendra Jagnade and Sudarshan Jadhav who are objector claim to be the lawful owner of the property. It is appeared from the dispute that the present applicant was introduces in the flat property by Shri. Masavkar and since there was dispute between shri. Masavkar and Naresh Wadiya the sale deed came to be executed in favour of propose purchaser Shailendra Jadhav and Sudranshan Jadhav. Here it is necessary to mention that lawful owner and title of the property dispute cannot be entertain by this Forum as this Forum has no jurisdiction to decide the title over the property in dispute. It is necessary for the person who is interest in the property should bring proper order from competent authority in course of law

14.

The question of entitlement to apply for new connection which is dispute raised before the Forum. There are made serious allegation made against Add. Executive Engineer of this sub division by the occupant nature of this allegations are personal this Forum not inclined to give any attention towards personal allegation. As per the Regulation and Rules frame under the statute the necessary requirement for the person who claim new connection proper procedure should be follow. The consumer had made application for new connection in format before the respondent utility office. Application for new connection was not considered for want of proper documentation admittedly the legal ownership of the said flat in dispute it was inform to the utility .As per record of MSEDCL the bill for the month of September 2015 name of consumer is shown Shri. Naresh Wadiya and he transfer his right by execution of registered sale deed to Shailendra Jagnade and Sudarshan Jadhav they are legally entitle to apply for new connection but admittedly they are not in possession of the premises and serious dispute of possession is in existence. Therefore the connection which was already dispute to the premises was used by the present applicant but no proper document and authorization produced by the said consumer at the time of verification of document his application for new connection. The correspondence made to the consumer by utility he was given sufficient opportunity to procedure valid document of ownership but according to utility no document is produced. Concern of the seeking of legal advice at this stage this Forum do not wish to make any comment. so far as the legal aspect is concern if the occupant want new connection in his name he has to produce proper documentation which legally permissible about the ownership which entitled him legally occupation of flat this is violation of

general condition and therefore rejection of new connection in his name cannot be said to be illegal therefore action taken by respondent utility office is justified. The present occupant raised the dispute that this connection cannot be disconnected on the request of original consumer more important fact is that Shri. Mahesh Zagade is not a consumer within the definition of 2(A) of Ombudsman Regulation as he merely occupant but not having legal and valid document in his favour. The authority of MSEDCL cannot have right to decide the title over the property and concern to the possession. So far as word possession use in the statute under Ombudsman Regulation and Indian Electricity act it means that prima -feci legal possession. It means that entry of the person should be levelly and not otherwise. To my view person illegally in occupation of premise cannot have any relief in his favour most specifically in the Case Shri. Mahesh Zagde is not consumer within the definition of I.E.A. and Ombudsman Regulation and therefore he cannot made any complaint therefore this consumer complaint liable to be dismiss with cost. Hence I proceed to pass following order.

ORDER

1. Consumer complaint No. 139/2017 stands dismissed with cost.
2. However the consumer already given time to submit the proper legal document or order from competent court.
3. The respondent utility shall act in respect of continuation of connection in accordance with law No order as to the cost.

Proceeding close.

Both the parties be informed accordingly.

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

Note:

1) If Consumer is not satisfied with the decision, it may proceed within 60 days from 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