



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph: – 2210707 & 2328283 Ext: - 122

IN THE MATTER OF GRIEVANCE NO. K/N/031/341 OF 09-10 OF SHRI JAGDISH G. WADHWA, ULHASNAGAR REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT NEW CONNECTION.

Shri Jagdish G. Wadhwa
19, Prince Market, Ground Floor,
Ulhasnagar : 421 003

(Here in after
referred to
as applicant)

Versus

Maharashtra State Electricity Distribution
Company Limited through its Dy. Executive
Engineer, Ulhasnagar Sub-Dn No. II

(Here in after
referred to
as Licensee)

- 1) Consumer Grievance Redressal Forum has been established under regulation of "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers. This regulation has been made by the Maharashtra Electricity Regulatory Commission (MERC) vide powers conformed on it by section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, 2003. (36 of 2003).

- 2) The applicant registered grievance with the Forum on 21/10/2009 regarding New Connection. The details are as follows: -
Name of the applicant : Shri Jagdish G. Wadhwa
Address: - As above
Consumer No : --
Reason for Dispute : - Regarding New Connection
- 3). The batch of papers containing above grievance was sent by Forum vide letter No. EE/CGRF/Kalyan/884, dt. 21/10/2009 to the Nodal Officer of the Licensee, and the Licensee through Dy. Ex. Engr. MSEDCL Ulhasnagar Sub/Dn-2 filed reply vide letter No. DYEE/Sub.Dn.II/Tech/1732, dt. 10/11/09.
- 4) The Forum heard both the parties on 03/12/2009 @ 16.00 Hrs. in the meeting hall of the Forum's office. Shri V. D. Kale Asstt.Engr., Shri S. V. Dumane Jr. Engr. representatives of the licensee, Shri Jagdish Wadhwa applicant attended hearing. Minutes of the hearing including the submissions made by the parties are recorded and the same are kept in the record. Submissions made by the parties in respect of grievance since already recorded will be referred to avoid repetition.
- 5) Applicant Jagdish G. Wadhwa claims to have purchased Shop No. 19, Prince Market, Ulhasnagar in the month of September 09. On 14/09/09 he made application for getting new single phase commercial connection load of 380 Watts to the said shop. Office of licensee at Ulhasnagar apprised by reply dt. 08/10/09 that earlier consumer No. 202150335047 was installed in the said shop and it was permanently disconnected for arrears of Rs. 67,556/- was not paid. The applicant instead depositing the arrears lodged his grievance to this Forum for release electric meter.

- 6) Opponent licensee contended that earlier consumer No. 202150335047 was installed to the said shop in the name of Mr. Yashdev Sajandas Lalwani, however, it was permanently disconnected for non payment of arrears of Rs. 67,556/- without depositing the same new meter cannot be given. It is contended that defaulter Lalwani with a view to avoid payment of arrears prepared fake agreement to sale dt. 10/09/09 in the name of applicant. Therefore, applicant is not entitle to benefit under 10.5 of MERC Regulation of 2006. Consequently to pray to reject the application.
- 7) On perusal of the record and hearing both the parties following points arise for the consideration of Forum and findings thereon for the reasons recorded below :

Points	Findings
a)Whether the licensee is justified in rejecting the application for releasing supply to shop No. 19, Prince Market, Ulhasnagar	Yes
b) What Order ?	As per order below

Reasons

- 8) According to applicant Jagdish Wadhawa he purchased Shop No. 19 referred to above vide agreement dt. 10/09/09. He needs single phase commercial connection 380 vatts to the said shop and the same be released. Alongwith the application he filed copy of unregistered sale agreement. It is seen this agreement copy is notarized by Advocate K. Sahadevan. No date is put by any of the parties including the Notary on this deed. As per Section 49 of Indian Registration Act sale deed is

compulsorily registerable. Since it is unregistered and for the reasons given above is apparently fake, made with a view to avoid to pay arrears of electricity charges.

- 9) Applicant urged with force that vide Clause 10.5 of MERC Regulation 2005 he is ready to pay six months billing amount and accordingly the licensee is bound to release new connection. This Clause states :

“ Any charge for electricity or any sum other than a charge for electricity due to the Distribution Licensee which remains unpaid by a deceased consumer or the erstwhile owner/occupier of any premises, as a case may be, shall be a charge on the premises transmitted to the legal representatives/successor-in-law or transferred to the new owner/occupier of the premises, as the case may be, shall be a charge on the premises transmitted to the legal representatives /successors-in-law or transferred to the new owner/occupier of the premises, as the case may be , and the same shall be recoverable by the distribution as due from such legal representatives or successors-in-law or new owner/occupier of the premises, as the case may be.”

- 10) Inviting attention to the last para page 6 of the Agreement applicant pointed out that transferee alone took responsibility to pay the electric bills. It is to be noted that nowhere in this deed made mention on the possession. Needless to say possession is nine points in law and ownership is having only one point . That way possession is very relevant in case of such transaction. This indicates agreement deed placed on record is not at all genuine and that applicant is concerning with the defaulter. Their Lordships of the Hon. Appex Court in case M/s.Amit Product (India) Ltd V/s Chief Engineer (O&M) Circle and others reported in 2005 (5) All M.R. 968(SC) ruled that refusal of connection can not be

questioned when the defaulter is concerning with the claimant of new meter. In the case in hand, as mentioned above applicant claimant of new meter joining hands with the defaulter with malafide intention filed the instant application, therefore, he cannot avail benefit under provision 10.5 as above. On the grounds mentioned supra the licensee is justified in rejecting the application for new connection as arrears of electricity was not paid. In view of this, grievance application is devoid of substance and therefore deserves to be dismissed. Point is answered according and hence the order :

ORDER

- 1) Grievance application stands dismissed.
- 2) The Consumer can file representation against this decision with the Ombudsman at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission, 606/608, Keshav Building, Bandra Kurla Complex, Mumbai 51”

Representation can be filed within 60 days from the date of this order.

Date : 14/12/2009

(Mrs. S.A. Jamdar)
Member
CGRF Kalyan

(R.V.Shivdas)
Member Secretary
CGRF Kalyan

(S.N. Saundankar)
Chairperson
CGRF Kalyan