

**Maharashtra State Electricity Distribution Co. Ltd.'s
Consumer Grievance Redressal Forum
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/078/2015

Applicant : Shri Ramesh P. Sonare,
House No. 753/71, Kawtha Rd.
Khairi, Kamptee, Distt.
Nagpur : 26.

Non-applicant : Nodal Officer,
The Executive Engineer,
Division No. I,
Nagpur Rural Circle,
NAGPUR.

Applicant :- In Person.

Respondent by 1) Shri P. Satyadev, Dy. E.E.
2) Smt. Godbole, A.E. (O).

Quorum Present : 1) Shri Shivajirao S. Patil,
Chairman.

2) Adv. Subhash Jichkar
Member.

3) Shri Anil Shrivastava,
Member / Secretary.

ORDER PASSED ON 4.6.2015.

1. The applicant filed present grievance application before this Forum on 6.4.2015 under Regulation 6.5 of the Maharashtra Electricity Regulatory Commission (Consumer

Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (hereinafter referred to as said Regulations).

2. Along with main grievance application, applicant claimed interim relief under regulation 8.3 of the said regulations and claimed not to disconnect the supply till the disposal of the matter

3. Applicant's case in brief is that he agreed to purchase Kh.71/1 of village Khairi from Shri Jagannath Punjabrao Khergade for a consideration of Rs. 3,75,000/- as per agreement of sale Dt. 1.9.2003. Subsequently owner of the property sold this property to Shri Kashinath B. Yadav as per registered sale deed Dt. 15.2.2008. Application took mutation entry of this field in the record of village Panchayat and obtained N.O.C. of village Panchayat. On that basis electricity connection was released to the applicant.

4. Later on, purchaser of the property Shri Kashinath Yadav took necessary steps & village Panchayat has cancelled N.O.C. Therefore M.S.E.D.C.L. had issued notice Dt. 30.3.2015 to the applicant to explain all these aspects within 15 days failing which supply of the applicant shall be disconnected.

5. Non applicant denied applicants by filing reply Dt. 8.4.2015. It is submitted that electricity supply was given on 18.1.2015 for residential purpose to the applicant Shri Ramesh Sonare on the basis of N.O.C. and tax receipt issued by village Panchayat Khairi. It is disclosed that applicant obtained N.O.C. falsely so the village Panchayat has cancelled the N.O.C. In tax receipt, house number is shown 753/51 but location is not mentioned. Applicant got the supply for house in Kh. No. 71/1 of village khairi and claims to be in possession of land by virtue of agreement to sale – possession deed Dt. 1.9.2003 executed by Shri Jagannath Khergade. However, Jagannath Khergade has executed registered sale deed of same land in favour of Shri Kashinath Yadav on 15.2.2008. Name of Shri Kashinath Yadav is recorded in 7/12 extract while name of Shri Ramesh Sonare is not. As per section 43 of Electricity Act 2003 electricity supply is to be given to the owner / occupier of the premises but applicant is not the owner as sale deed of the same land is registered in favour of Shri Kashinath Yadav and applicant is not occupier so he is not fulfilling legal requirements. Hence as per letter of Secretary, village Panchayat Khairi Dt. 29.1.2015, supply can be disconnected for two reasons, firstly because of furnishing of false N.O.C. of village Panchayat and secondly as he is not the owner and occupier of the premises. As per letter of Legal Advisor Dt. 19.3.2015 P.D. notice is given to the applicant on 30.3.2015. Grievance application deserves to be dismissed.

6. Forum heard arguments of both the sides and perused the record.

7. It is an admitted fact that applicant entered only into agreement of sale and agreed to purchase disputed property in Kh. No. 71/1 village Khairi. It is an admitted fact that up till now no sale deed is executed in the name of applicant by the owner. It is also an admitted fact that owner of the property sold the same field by registered sale deed in the name of Shri Kashinath Yadav. Record shows that mutation of the field is carried out in the name of purchaser Shri Kashinath Yadav and his name is entered into 7/12 extract.

6. Record shown that special suit No. 123/12, Shri Ramesh Sonare Vs. Jagannath Khergade & others is pending in the court of Civil Judge, Senior Division Kamptee. Therefore the matter is subjudice before the Civil Court.

7. Needless to say that the property is in Khasara No. 71/1 of village Khairi. Therefore it is agricultural field property. If anybody intends to convert the agricultural land for residential purposes, according to the provisions of Maharashtra Land Revenue Court, it is necessary to obtain N.A. permission from Competent Authority. There is nothing on record to show that there is N.A. of this field property with a permission to convert agricultural property for residential purposes. Even then, it is rather surprising to note that applicant manipulated the relevant authorities and paid taxes of house No. 753/71 Rs. 900/- on Dt. 5.1.2015 to village Panchayat Khairi. There is also another receipt for payment of tax of same house to village Panchayat on 25.9.2007.

8. Needless to say that title of the field property or house property can be transferred only by registered documents if the consideration is exceeding Rs. 100/-. Without registration of sale deed title of the property can not be passed merely on the basis of agreement of sale and ownership can not be vested. Even then record shows that applicant entered his name in mutation register of village Panchayat Khairi and created imaginary house No. 753/71. Therefore mutation of applicant's name in village Panchayat record and tax payment by him is baseless and without any right. All these documents are null & void vide ab-initio.

9. It appears that applicant produced false N.O.C. obtained from village Panchayat but when village Panchayat realized this fact, cancelled this N.O.C. and communicated to M.S.E.D.C.L.

10. From these documents it is crystal clear that applicant has misled village Panchayat and M.S.E.D.C.L. and though he is not the owner & occupier of the property succeeded in getting illegal electricity connection. Such connection can be disconnected by M.S.E.D.C.L.

11. On the contrary, third party i.e. Shri Kashinath B. Yadav also appeared before the Forum & produced all relevant documents. He had produced copy of registered sale deed on record, so also 7/12 extract. Considering all these aspects, in our opinion disconnection notice issued by M.S.E.D.C.L. to the applicant is legal and proper and M.S.E.D.C.L. is entitled to disconnect the supply of the applicant.

12. It will not be out of place to mention here that the applicant Shri Ramesh Sonare & Shri Kashinath B. Yadav are parties to civil litigation before Civil Court of competent jurisdiction. It appears that to establish the possession in Civil Court, both the parties are trying their level best to collect the evidence in the shape of electricity connection also. There is also claim of perpetual injunction pending before Civil Court & suit is pending. However, we must make it clear that both the parties are at liberty to approach competent Civil Court to obtain suitable relief for registration of sale deed, possession, dispossession etc. However, our jurisdiction is only limited to the extent of decision on the point of legality of disconnection notice. In our opinion, notice of disconnection issued by M.S.E.D.C.L. is illegal and valid & therefore can not be set aside & cancelled. Hence grievance application deserves to be dismissed. Therefore Forum proceeds to pass the following order :-

ORDER

- 1) Grievance application is dismissed.
- 2) Order of interim relief Dt. 8.4.2015 passed by this Forum is hereby modified and cancelled.
- 3) However, both the parties are at liberty to approach Competent Court of Civil Jurisdiction to establish their claim about property on merits.

Sd/-
(Anil Shrivastava)
MEMBER
SECRETARY

Sd/-
(Adv. Subhash Jichkar)
MEMBER

Sd/-
(Shivajirao S. Patil),
CHAIRMAN