

**Before Maharashtra State Electricity Distribution Co. Limited Consumer
Grievances Redressal Forum, Pune Zone, 925, Kasabapeth Building, 11nd flr.
Pune-11**

Case No. 18 of 2007

Date: 11/01/2008

In the matter of Mr.Kusum Madan More

- Complainant

V/S

M.S.E.D.C.L. Rastapeth Division

- Opponent

Corum	Chair Person	Mr. A.V.Bhalerao
	Member/Secretary,	Mrs. N.D.Joshi,
	Member,	Mr. T.D. Pore

1) Mrs. Kusum Madan More (Complainant for short) is the tenant of the premises bearing No. 77-A/29-34, Wanowrie, Pune-40. Its owner Shri. Mohammad Shafi Ataullah, had obtained connection for the supply of electricity to the said premises under consumer No. 160250221981 through a meter No. 9005272239 from Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) (Opponent for short). After obtaining the said property on lease the complainant started the business of Restaurant under the name and style "Amantran (Veg-Non-Veg) Restaurant" and used the electricity for running the said Restaurant. It is not necessary to narrate the entire case made by the complainant in her complaint, as this matter can be disposed of on a legal point of maintainability. Suffice to say that complainant when received the bill dt. 03/05/07 and dt. 30/0707 for the amount of Rs.37,020/- and Rs.67,860 respectively made a grievance to the Internal Grievance Redressal Cell (IGRC). The complainant was not satisfied with the decision given by IGRC and therefore she approached this forum and claimed the relief enumerated in para-7 of the complaint, which are as follows.

- a) The demand bill dt. 03/05/07 and dated 30/06/07 amounting to Rs.37,020/- and Rs. 67,860/- respectively be declared illegal and subsequent bill be also declared illegal.
 - b) The ASC/IASC recovered from 2005 to May-2007 from the consumer and interest recovered illegally from the consumer be adjusted in the outstanding bill and set off may kindly be given.
 - c) The MSEDCL, St.Mary Sub Division, Pune be restrained from disconnecting the electricity supply to the consumer No. 160250221981
 - d) Direction be given to provide three phase connection forthwith in the name of applicant.
- 2) It was made clear on behalf of the complainant that she had filed a civil suit in the court of Civil Judge, senior division Pune at Pune but before filing this complaint she withdrew the said suit. The complainant filed a Xerox copy of the plaint in civil suit No. 1664/2007 instituted in the court of Civil Judge, Senior Division Pune at Pune by Mr.Mohammad Shafi Ataullah, the owner of the premises in question,in whose name the electricity meter stands and who is the consumer. Even today the bills are issued in the name of Mohammad Shafi Ataullah and the payment of those bills are made on his behalf. Mahammad Shafi Ataullah claimed the relief as averred in para 16 of the plaint which are -
- a) The Defendants No.2 to 4 be restrained from disconnecting the electricity supply to the restaurant premises run under the name and style as "Amantran (Veg.& Non Veg.) Restaurant" situated at 77/29-34, Wanowrie, Shivarkar Road, Pune-411040 and being supplied on meter No. 9005279239 and consumer No. 160250221981 allotted to the plaintiff.
 - b) The demand bill dated 03/05/07 for Rs. 37,020/- and dtd. 30/06/07 for Rs. 67,860/- be declared illegal and not binding on the plaintiff and the Defendant No.5.

- c) The Defendant Nos. 1 to 4 be ordered to work out how much additional surcharge recovered from the plaintiff and interest and directed to refund the same to the plaintiff.
 - d) The Defendant Nos. 2 to 4 be directed by a order of mandatory injunction to give three phase connection to the restaurant situated in the premises bearing No. 77/29-34, Wanowrie, Shivarkar Road, Pune-40 having load of 8 KW.
 - e) The defendant Nos. 2 to 4 be ordered by a mandatory injunction to replace the meter No. and consumer No. of the old consumer in the name of the Defendant No.5, being a legal tenant of the plaintiff.
 - f) The Defendants be ordered to pay the cost of this suit.
 - g) Any other just and equitable order, in the interest of justice may kindly be passed.
- 3) The complainant did not aver any thing whether the civil suit No. 1664/07 filed by Mr. Mahammad Shafi Ataullah the owner of the premises has been disposed of or pending. Notice was therefore issued to the complainant. The complainant gave a reply dt. 11/12/07 to the said notice and informed that the civil suit No.1664/07 filed by original consumer Mr. Mahammad Shafi Ataullah for declaration, injunction and recovery of the amount against MSEDCL is pending for filling say to Exbit-5 and also Maintainability of injunction application and next date has been fixed for hearing the interim application.
- 4) The opponent filed its written statement and contended that the civil suit in respect of the matter in issue in the present complaint is pending before the Civil Court and till its decision, the present complaint be postponed.
- 5) On the date of the hearing arguments advanced on behalf of parties to the complaint were heard. From the facts involved in the case and the documents produced following point arises for consideration.
- a) Is present complaint barred by the provision contained in 6.7 of MERC Regulations 2006?

The above point is answered in the affirmative for the reasons given below.

REASONS

- 6) What relief is claimed by the complainant in para-7 of the complaint is enumerated above. The relief claim by Mr. Mahammad Shafi Ataullah in Civil suit 1664/07 have also been enumerated above. The civil suit 1664/07 is filed by Mr. Mahammad Shafi Ataullah against Managing Director, Executive Engineer, Dy. Executive Engineer of MSEDCL and Mrs. Kusum Madan More the tenant. Mr. Mahammad Shafi Ataullah is a consumer in respect of a supply connection of the electricity in question. The suit filed by him for the relief involved in the present complaint is pending in the proceeding before the court of Civil Judge, Senior Division Pune at Pune. The Reg.6.6 reads that the forum shall not entertain the grievance where a representation by the consumer in respect of the same grievance is pending in any proceeding before any court, tribunal or arbitrator or any other authority or Decree or award or final order has already been passed by any such court tribunal, arbitrator or authority.
- 7) As discussed above, it is clear that the subject matter in question in the complaint before the forum is a subject matter in a civil suit 1664/07 instituted by Mr. Mahammad Shafi Ataullah who is the consumer. The parties to the present complaint are also the parties to civil suit No. 1664-2007 and therefore as the said suit is pending before the court, the present complaint cannot be entertained in view of Regulation 6.6 of MERC Regulations 2006.

ORDER

The complaint is dismissed.

Sign:

Mrs. N.D.Joshi,
Member/Secretary

Mr. T.D.Pore,
Member

Mr. A.V. Bhalerao
Chair Person

Date: 11/01/2008