

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

**Case No.23 of 2008**

**Date: 12/01/2009**

**In the matter of Mr.I.B.Manyar**

**- Complainant**

**V/S**

**M.S.E.D.C.L. Bundgarden Division**

**- Opponent**

**Corum**

Chair Person

Mr. A.V.Bhalerao

Member/Secretary,

Mr. D.K.Mane,

Member,

Mr. T.D. Pore

- 1 Shri.I.B.Manyar (Complainant for short) has filed this representation contending that he purchased the land bearing S.No. 74/4A/7 admeasuring 10 Guntha from the predecessor of Shri.Akabar Rajjat Sayyad under registered sale deed dt. 19/02/69 After purchasing the said land he constructed a house therein leaving some portion vacant. He had to stay at Phaltan away from his house for a long period during which Shri.Akabar Rajjat Sayyad his vendor's son by making encroachment erected a shed 10"X10" in the vacant portion of his land. Shri.Akabar Rajjat Sayyad falsely represented to Maharashtra State Electricity Distribution Co. Ltd. (Opponent for short) that the shed was part and parcel of his land Sr.No.74/4A/A1/1 and obtained power supply connection to the shed. The complainant contended that the opponent be directed to remove the electric meter and service line which has been illegally obtained by Shri.Akabar Rajjat Sayyad. The complainant had made a grievance to Internal Grievance Redressal Cell (IGRC) contending that Shri.Akabar Rajjat Sayyad obtained the power supply connection in the

area of his land Sr.No. 74/4A/7 without his consent making false representation to the opponent and therefore it should be removed. The IGRC instead of giving any direct relief to the complainant directed the opponent to obtain legal advice as a point in issue was as regards the dispute of the land and to take further action in view of the legal advice obtained. The legal advice given to the opponent was that Shri.Akabar Rajjat Sayyad being an occupier of the shed is entitled to get the power supply connection further the dispute as regards the property where shed stands is pending before the court and therefore power supply connection can not be removed.

- 2 The complainant did not get any relief from the IGRC, he therefore made a grievance to this forum.
- 3 The opponent through its Ex.Engr, Bundgarden division Pune filed written statement contending that Shri.Akabar Rajjat Sayyad produced the documentary evidence relating to S.No. 74/4A/1A/1 and after he had made a due compliance the power supply connection was given to his shed on 05/12/07. It was further contended that the dispute between the complainant & Shri.Akabar Rajjat Sayyad is pending before the civil court.
- 4 The matter was fixed for hearing on 05/01/09 the complainant remained absent on that day. On behalf of the opponent Shri.Navale, Dy.E.E.Hadapsar-II appeared and argued that the power supply connection was given to Shri.Akabar Rajjat Sayyad only after he had produced all relevant documents of his land S.No.74/4A/1A/1 and on finding that Shri.Akabar Rajjat Sayyad was in possession of it. For the complainant's argument the case was adjournment to 07/01/09. The complainant appeared on the adjourned date and argued his case reiterating what he pleaded in his written grievance already filed. On pleadings and documents produced by both parties following point arises for consideration.

1:- Can the grievance made by the complainant be entertained?

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

### **REASON**

- 5 On reading the complaint it is clear that the complainant's case is that Shri.Akabar Rajjat Sayyad made an encroachment 10"X10" upon his land Sr.No. 74/4A/7 and constructed a shed therein and made false representation to the opponent that it was part and parcel of the land S.No. 74/4A/1A/1 to obtain power supply connection. The complainant did not dispute that Shri.Akabar Rajjat Sayyad be it as a trespasser is in possession of the shed to which power supply connection is given. The point in dispute therefore is " does complainant prove that the shed to which power supply is obtained, is erected by Shri.Akabar Rajjat Sayyad on making encroachment upon his (complainant's) land Sr.No. 74/4A/7 "
- 6 To decide the above issue a question of title has to be determined. Such issue is not covered by the definition of grievance as given in Regu 2.1 (c) of Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations 2006 (MERC CGRF Reg. 2006) which reads as follows.

"Grievance" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensees as specified by the commission and includes inter alia (a) safety of distribution system having potential of endangering of life or property and (b) grievance in respect of non compliance of any order of the Commission or any action to be taken in pursuance thereof which are within the jurisdiction of the Forum or Ombudsman, as the case may be."

The dispute raised by the complainant is as regards the title of the property which is in the nature of civil. The competent court to determine this issue of title is the civil court and not the forum which has been constituted under Electricity Act-2003. This forum has jurisdiction only to decide the issue pertaining to the grievance as defined above. The question therefore raised by the complainant is not within the ambit of this forum due to which the alleged grievance made by the complainant can not be entertained.

- 7 The opponent has produced the Xerox copy of the application made by Shri. Akabar Rajjat Sayyad for temporary injunction in a civil suit NO.1260/2007 filed by him against the present complainant. The complainant has produced a Xerox copy of the written statement filed by him in the said suit . The complainant admits that the said suit is still pending before the civil court. From the contents of the application made by Shri.Akabar Rajjat Sayyad in regular civil suit No.1360/2007 filed against the complainant for temporary injunction, it is seen that Shri.Akabar Rajjat Sayyad therein has mentioned the eastern boundary of his land S.No.74/4A/1A/1 as mahamadwadi road . From the averments made by the present complainant in his written statement filed by him in the said civil suit has disputed the eastern boundary given by Shri.Akabar Rajjat Sayyad as mahamadwadi road. From the above averments made by parties to regular civil suit No.1360/2007 pending between them the boundary of the land 74/4A/1A/1 is in dispute meaning thereby the title to the area where the shed to which power supply is given is in dispute and the said dispute also goes to the route of the question involved in the grievance made by the complainant and therefore also as laid down in Reg.6.7 (d) of MERC CGRF Reg.2006 this forum can not entertain the grievance made by the complainant as the dispute raised before this forum by the complainant is pending in a proceeding before the civil court.

## **ORDER**

Complaint/Grievance made by the complainant stands dismissed.

Mr. D.K.Mane,  
Member/Secretary

Mr. T.D.Pore,  
Member

Mr. A.V. Bhalerao  
Chair Person

Date: **12/01/2009**