

CONSUMER GRIEVANCE REDRESSAL FORUM
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE
(Established under the section 42 (5) of the Electricity Act, 2003)

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No. / CGRF /Nashik/NUC/N.U.Dn.1/814/67/2019-20/
(BY R.P.A.D.)

Date: 09/08/2019

Date of Submission of the case : 28/06/2019
Date of Decision : 09/08/2019

Before the CGRF Nashik at Nashik (Case No. 67-19)

Name of the party : M/s. Asian Electronic Pvt. Ltd.

Through Rupesh Dhirwani

V/S

- 1) Nodal Officer ,MSEDCL, Circle Office Nashik
- 2) M/s. Nilraj Engineering works Pvt. Ltd. through Anil Sanghvi

Judgement

1. The present application is filed by M/s. Asian Electronic Pvt. Ltd. through Shri. Rupesh Dhirwani for permanent Injunction under Regulation 8.5 of MERC on
 - a) That on date of illegal disconnection by the respondent & this application the applicant is in possession of the transformer , cable & Electric connection .
 - b) Since 14/05/2013 the M/s. Asian Electronic Pvt. Ltd. through the owner Mr. Arun Babulal Shah has assigned it to 1) Mohanlal K. Pahuja & 2) Mr. Rupesh Dhirwani for manufacturing activities including factory land and building, with machines, PCB Manufacturing Machines, Transformers, winding machine, storage, cupboards' racks quality assurance laboratories , testing equipments, Security cabins etc. (here in after referred to suit land for convenience) for consideration of 2,50,00,000/-.
 - c) It has also being assigned the trade mark "Asian Electronic Pvt. Ltd.", the product , market etc. from the original owner of Asian Electronic Pvt. Ltd.
 - d) Since assignment on 14/05/2013, on paying 11,00,000/- as Electricity dues to respondent No. 1 and there after regularly paying MSEDCL's Electricity charges till today, he is in possession of the transformer, electric connection etc.

- e) The Respondent No. 1 MSEDCL in hand & glow with respondent No. 2 without giving any notice or intimation to the applicant, illegally made efforts to disconnect the electric supply.
- f) When objected by the applicant without giving hearing to the applicant, illegally transferred the name & address of the applicant in the Electricity Bill & transferred the Electricity bill in the name of respondent No. 2 M/s. Nilraj Engineering works Pvt. Ltd. So this application for permanent injunction with prayer .
- i. Not to disconnect/ disturbed the Electric supply, Transformer, Cables Etc.
ii. To restored the original name of the applicant with address on MSEDCL's Bills.
2. Challenging in the said contentions the respondent No. 1 i.e. MSEDCL has submitted that
- a) After verifying all the documents of ownership ,possession and physically verification of the site, the Hon'ble High Court through it liquidator and Asset reconstruction Co. and following due procedure of law has sold M/s. Asian Electronic Pvt. Ltd to respondent No. 2 i.e. M/s. Nilraj Engineering works Pvt. Ltd. and it being owner the name & address along with connection efforts were made to transfer.
3. In support of submission of Respondent No.1 (MSEDCL), the Respondent No. 2 (M/s. Nilraj Engineering works Pvt. Ltd.) has submitted their say. According to them as they have purchased M/s. Asian Electronic Pvt. Ltd. in auction bid, they are entitled to land , construction and electric supply and so their demand/ request to respondent No. 1 to transfer the name , address & electric supply to their premises is just proper and legal and so prayed for rejecting the application.

From the Pleading following issues arise for our determination & findings recorded accordingly as under.

4.	ISSUES	FINDINGS
1.	Is it prove that on the date of this present application Whether applicant is in possession of the transformer, Cable & Electric connection .	Yes
2.	Do cause of action arose to file the application .	Yes.
3.	Do this Forum has Jurisdiction to try and entertain the application.	Yes.
4.	What order and Judgment.	As per final order.

Reasons

5. **As to issue no. 3**

Adverting to jurisdiction to the forum to try & entertain the application we would like to opt provisions of 8.5 of MERC Regulation .

On this issue the respondents submit that before approaching the IGRC Nashik the applicant has approached the CGRF Nashik directly, so the CGRF has no jurisdiction to try & entertain the application.

On the other hand the applicant's submission is that they have applied for injunction on illegal disconnection and change in name and address, on the subject matter IGRC has no power to grant injunction and so they have approached CGRF Nashik, which is legal and valid.

We have gone through the provisions of 8.5 of MERC Regulation minutely, the said provision accords power of granting injunction only to CGRF and not IGRC, thus considering their claim and subject dispute, the present Forum has powers to grant or refuse injunction, thus the application is maintainable before the Forum only as having the jurisdiction to try and entertain the application, thus the issue no 1 is answered in positive.

6. As to issue No. 1 & 2

Both the issues are inter related & so are taken up together.

It is the claim of the applicant that since 14/05/2013 he is in the possession, use and occupation of the land, building, machinery, transformer, electric supply and is the regular paying customer of the energy used to the respondent No. 1, the efforts of disconnection & change in name and address is speculation of illegal disconnection and so their prayer of injunction be granted.

On the other hand respondent No. 1 & 2 has submitted that respondent No. 2 has legally purchased disputed land and has been given peaceful possession of secured assets on 23/04/2019, so they are entitled to electric supply, change in name, address and so prayed for rejecting the application.

We have gone carefully through the documents filed by both the parties, the basic principles for grant of injunction is the possession of electric supply on the date of present application.

For ascertaining possession the applicant has filed assignment deed dtd. 14/05/2013 executed by the owner of M/s. Asian Electronic Pvt. Ltd., Shri. Arun Babulal Shah. This document discloses that since 14/05/2013 the applicant is in possession of land, Building, Machinery, Trade name, Product, Market, Transformer, Security Cabin etc. The present disputed electric supply since 14/05/2013 is in use and occupation of the applicant, he is regularly paying consumer of the respondent No. 1. On the other hand the sale deed of respondent No. 2 is of 30/03/2019 and possession receipt is of 23/04/2019, which means that 6 to 7 years prior to the ownership and possession of respondent No. 2, the applicants are in use and occupation of the disputed transformer, cables and electric supply etc.

The respondent No. 2 is not the purchaser of the whole land which is of 5 acres, originally owned by M/s. Asian Electronic Pvt. Ltd. From the sale documents filed on record the respondent No. 2 has purchased only 10224 Sq. Mtr. i.e. Part of total land of M/s. Asian Electronic Pvt. Ltd.

From the rough sketch of the site filed on record it appears that the original owner has installed one Transformer with HT metering cubicle and from this transformer the supply was given to the applicant which is still owned by M/s. Asian Electronic Pvt. Ltd. and assigned to the applicant.

The titled document of respondent No. 2 nowhere discloses that, this transformer, HT metering cubicle, cables & electric supply which is in use and occupation of the applicant, is also sold to the respondent No. 2 by the liquidator, Asset reconstruction Co. Ltd. (Arcil).

The claim of the applicant that the respondent No. 1 & 2 are illegally making efforts to disconnect their electric supply and transfer it to the respondent No. 2, get strength & speculation from the conduct of the respondent No. 1 to abruptly change the name & address on the electric bill which was regularly issued in the name of M/s. Asian Electronic Pvt. Ltd. with address and is regularly paid by the applicant for use and occupation, thus warranting Prima facie case, and grant of injunction in the applicant's favour.

The applicants are using, occupying and paying the electricity charges consumed for their manufacturing unit in which 200 to 300 works are regularly employed .

If electric supply is disconnected , which is the essential commodity for any manufactory unit and is related to the right in the immovable property, thus constituting irreparable loss to the applicant alongwith balance of convenience in his favour. Resulting into following order.

ORDER

1. Respondent No. 1 & 2 are permanently restrained from excess to the Transformer, electric installation , electricity installation yard, disconnecting or disturbing electric supply including transformer , HT metering cubicle & cable etc. presently situated and supplied to the applicant either themselves, through their agency or any third party.
2. Respondent No.1 is further directed to restored name & address on the electricity bill of consumer No. 049069000435 as it was since 14/05/2013.
3. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within one month and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum .
4. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings *suo motu* or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
5. If aggrieved by the non-redressal of his Grievance by the Forum, the Complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Prasad P. Bicchhal)
Member Secretary

(Vivekkumar R.Agarwal)
Chairman

Opinion of Member (CPO)

I disagree with decision of Chairperson & Member Secretary

& My opinion is as follows :

1. Complaint Shri. Rupesh Dhirwani is not a consumer as per Indian Electricity Act. 2003 Section 2 (15). No documentary evidence is submitted that he is owner of M/s. Asian Electronics Ltd. situated on Plot No. 68 for which the said Electrical Connection Con No. 049069000435 is sanctioned by MSEDCL who is the authorized legal consumer. He has suppressed the fact that

he is owner of M/s. Virtuoso Opto Electronics Pvt. Ltd. Plot No. 68/4, MIDC, Satpur Nashik and applied as M/s. Asian Electronics Ltd.

2 Agreement submitted by Mr Rupesh Dhirwani is illegal as it is done after process of liquidation process of Asian Electronics Ltd. is started. Hence the agreement is not valid.

3. As per the provision of **Indian Electricity Act. 2003** Sec. 126 (6)

(b) " unauthorized use of Electricity " means the usage of Electricity –

(i) by any artificial means ; or

(ii) by means not authorized by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

(iv) for the purpose other than for which the usage of electricity was authorized.

(v) **for the premises or areas other than those for which the supply of electricity was authorized.**

In the present case subsection (v) is applicable. As per EA Act. 2003 No consumer can extend/ sale Electricity to another plot holder/ industry/ consumer. The owner of another plot can obtain Separate Electricity connection from MSEDCL. In this case legal consumer is M/s. Asian Electronics Ltd. the same company is purchased by M/s. Nilraj Engineering Ltd. through liquidator of Hon. High Court Mumbai. At present name of consumer M/s. Asian Electronics Ltd. (Con No. 049069000435) is changed by MSEDCL in the name of M/s. Nilraj Engineering Ltd. vide MSEDCL office order No. 4030 dated 28/06/2019. Mr. Rupesh Dhirwani is owner M/s. Virtuoso Opto Electronics Pvt. Situated in another plot no. 68 /4 who is using electric connection of another plot no. 68 (i.e. of M/s. Asian Electronics Ltd.) which is offence as per IE Act 2003 section 126 (6) and therefore this Forum has **NO JURISDICTION** to entertain in complaint as per ombudsman Regulations 2006 section 6.8. Hence this application of non consumer who is coming under section 126 of IE Act 2003 and is liable to be dismissed.

As connection Con. No. 049069000435 is HT connection. Every month responsible engineer was taking the reading every month. Any engineer has not assessed that electricity was consumed for the premises or area other than those for which electricity was authorized. Hence MSEDCL is directed to do enquiry of concerned staff. The same is pointed out by new consumer M/s. Nilraj Engineering Ltd. and then only sub division officer has pointed out that Mr. Rupesh Dhirwani the owner of M/s. Virtuoso Opto Electronics Pvt. Ltd. using electricity in another plot i.e. 68/4 vide his joint survey report No. EE/NUD-1/Tech/Conf./76 dtd. 04/06/2019 and SE/NUD/T/HT/Asian Electronic Ltd./3653 dated 12th June 2019.

4 The application given by Mr. Rupesh Dhirwani for M/s. Asian Electronics Ltd. is misleading as M/s. Asian Electronics Ltd. is liquidated and company is no more in existence. At present consumer No. 049069000435 is at present in the name of M/s. Nilraj Engineering Works Pvt. Ltd. situated in plot no. 68 as he is the owner of company legally purchased through liquidator of Hon. High Court Mumbai.

5. The application is not submitted as per CGRF Ombudsman Regulations 2006 6.2, 6.7 and 6.8 as it is not given to IGRC Nashik but directly approached CGRF Nashik and no valid evidence is submitted for disconnection of electricity supply by Mr. Rupesh Dhirwani.

6. MSEDCL has given letter 3653 dated 12/06/2019 for illegal extension of Electricity of M/s. Asian Electronics Ltd. – Plot No. 68 of M/s. Virtuoso Opto Electronics Pvt. Ltd.—Plot No. 68/4, MIDC Satpur Nashik M/s. Virtuoso Opto Electronics Pvt. Ltd. which is run by and owned by Mr. Rupesh Dhirwani has misleader CGRF as all his applications and letters is written as M/s. Asian Electronics Ltd. and not in the name of M/s. Virtuoso Opto Electronics Pvt. Ltd. Hence the Applicant Mr. Rupesh Dhirwani should be penalized for Rs. 15000/- for misleading information and declaration to Forum

(Smt. Vaishali V.Deole)
Member

Consumer Grievance Redressal Forum Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For Ex. Engr.(Admn)
 - 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
 - 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Urban Circle office, Nashik .
- Copy to : Executive Engineer (U-1) MSEDCL Nashik.