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REF.NO. Member Secretary/CGRF/MSEDCL/BNDUZ/180/ 327 Dates: 24.10.2019

**Hearing Date: 20.08.2019**

**CASE NO.180/2018**

**Shri. Dharmik R. Potdar,**  
**Mahakali Mandir,**  
**Ashok Nagar,**  
**Mulund- 400080**  
**Consumer No. 000097983461)**  
..... (Hereinafter referred as Applicant)

Versus

Maharashtra State Electricity Distribution Company Limited  
through its Nodal Officer,  
**Thane Circle, Thane**  
..... (Hereinafter referred as Respondent)

Appearance

For Consumer:- Mr. Dharmik Podar , Consumer

For Respondent: - Mr. P.P.Gulahane Additional Executive Engineer, Sarvoday Sdn.

**[Coram- Dr. Santoshkumar Jaiswal - Chairperson, Shri. R.S.Avhad -Member Secretary and Sharmila Rande - Member (CPO)].**

Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressal Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with

subsection 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'.

**Consumer Grievance:**

Applicant Dharmik R. Potdar is legal owner of the house situated at Survey No. 154, CTS No. 555 Mahakali "Mandir, Near Ashok Nagar, Nahur, Mulund (W)-400080. He has given room of Mr. Chintamani R. upadhayay for living. It have not sold said premises (room) to him and not taken any rent against it. Above house is in my name in Brihanmumbai Municipal Corporation I am paying property tax form year 1980. He has submitted leave and licensee agreement between Shri. Dharmik Ragunath Potdat and Mr. Chintamani R. upadhayay dtd. 17.11.1998. Late Manbahad Singh (premises owner) transferred above said property in my name as per affidavit of 01.01.1998. requested to cancel the application for new service connection made by Shri. Mr. Chintamani R. upadhayay. He has taken objection for releasing connection. Connection can be given to said room occupied by him by applicant name.

That the appellant say that the decision appealed was served on the Appellant on 10.08.2018 so it is within the time.

That the Appellant say that I am residing with my family members at the above said address mentioned in the title of this appeal, the said area/plot was occupied by his late father Manbhadur Singh on 1959, and we are residing since 1959 till date. In the plot / area two stall, three hutment, two shop, chawl, mandir, goshala and patra shed store is there, and applicant paying all these structures assessment municipal taxes till date in his name only. The person who are residing in hutment are occupier only i.e. holder of hutment and that hutment I have paid regular assessment tax in his name.

That the Appellant say that the requirement proof of ownership documents, any time applicant ready to satisfy you he is legally owner of the above said structures and he ready to prove that Mr. Chintamani R. upadhayay is only encroacher not the owner of the hutment.

That the Appellant say that I am seeking appeal before this Hon'ble Consumer Grievance Redressal Forum, Vidyut at Bhandup, against order dated 10.08.2018 in case No. 75/2018 passed by IGRC,MSEDCL, Thane.

That the Appellant say that I have marked application under my complaint as my grievance before IGRC, MSEDCL, Sarvoday Sub Division, Mulund (W),Mumbai - 400080 and Mr. Chintamani R. upadhayay.

That the Appellant say that IGRC hear the say of applicant i.e. myself and Respondent and IGRC has passed the order/decision on 19.12.2017 in favour of me i.e. Shri. Dahrmik Raghunath Potdar but another application filed by Mr. Chintamani R. upadhayay before IGRC against MSEDCL and final dicision passed by IGRC in my favour of Applicant i.e. Mr. Chintamani R. upadhayay i.e. set aside the order dated 19.12.2017 which was already paseed nu IGRC in my favour i.e. Shri. Dahrmik Raghunath Potdar.

That the Appellant say on the ground as under Mr. Chintamani R. upadhayay

- a) That whatever told or said by Mr. Chintamani R. upadhayay are false, frivolous, vague, incomplete and insufficient as well same is liable to be dismissed.
- b) That the Hon'ble IGRC has not considered both say in proper way and has not recorded any finding on this aspect of the matter.
- c) That the order/decision of IGRC is against the original facts and grounds of case and also against the law.

- d) That the appellant requested to examine elaborately both the sides original documents which was not seen by the IGRC.
- e) That the decision of the IGRC is against the principal of Natural justice.
- f) That in any view of the matter the decision of IGRC is not sustainable in law.
- g) That Mr. Chintamani R. upadhayay has not placed entire material before IGRC.

It is therefore most respectfully prayed that the appeal be kindly allowed and the order/decision of IGRC dated 10.08.2019 be kindly set aside. Any other relief deem fit in the circumstance of the appellant case be also granted.

### **Utility Say**

The additional Executive Engineer, Sarvoday Sub Division Mulund i.e the Respondent has filed the reply stating that the consumer Shri.Chintamani Rammanorth Upadhay has applied for fresh single phase residential connection near Mahakali Mandir 10, M.B. Sing Chawl,Nahur Road, Mulund (W). But there is an objection letter submitted by Shri. Dharmik Potdar and Yogita Dharmik Potdar regarding release of new service connection to Shri.Chintamani Rammanorth Upadhay. It is their say that they are owner of the property Shri.Chintamani Rammanorth Upadhyay has applied for new service connection. They have submitted relevant documents in r/o ownership of the said premises. The property where Shri.Chintamani Rammanorth Upadhyay has applied for the new service connection is totally difference location in respect to the property which tax has been paid by Shri. Dharmik Potdar. The map of the property is filed and also Shri. Man bahadar sing is actual Occupier of the said property has made affidavit with Shri.Chintamani Rammanorth Upadhay. In respect of the objection, as shri. Dharmik Potdar has not submitted any in case 55 of 2017rental or lease agreement of the above said property with Shri.Chintamani Rammanorth Upadhyay and therefore

new service connection is released in the name of Shri.Chintamani Rammanorth Upadhyay as per Circular No.274.

I have gone through the order of IGRC dated 20.01.2018 shows that additional executive Engineer Survoday subdivision has asked to legal advisor regarding release of connection in r/o Shri.Chintamani Rammanorth Upadhay. The legal advisor has given the reply that the supply has may be provided to the applicant as per guidelines issued under Commercial Circular 274 dtd. 11.11.2016. After obtaining the required charges and after completion of all statutory compliances as per MSEDCL Rules.

Further, it is observe that the consumer Shri. Dharmik Potdar has submitted the grievances to cancel the application of Shri.Chintamani Rammanorth Upadhay and issue the new service connection in the name of Shri. Dharmik Potdar but Shri. Dharmik Potdar has not only submitted any A1 form in respect of new connection purpose at the said premises also t also the bonafide documents relevant with the application.

The IGRC has held that the objection taken by Shri. Dharmik Potdar legal owner of the said premises new service connection applied by Shri.Chintamani Rammanorth Upadhyay should not be release.

IGRC has heard the grievance of consumer on 19.12.2017 case No. 55 and in this order was passed in favour of Shri. Dharmik R. Potdar again in the some matter IGRC, Thane heard second time case No. 75/2018 on 10.08.2019 and in this case IGRC, Thane quashed the previous order of Case No.55/2017.

Heard both sides and gone through the evidence on record. It appears from the record that the utility has given the electricity connection on the basis of Circular No. 274 dtd. 11.11.2016. However, this complainant is challenging that this connection was unlawfully given on the basis of he is the land lord as owner of the property which is occupied by the Shri.Chintamani Rammanorth Upadhay. From all this evidence of record it appears that this is the dispute regarding title of the Property and this CGRF has no jurisdiction to decide and to declared on the title of the Property. It is the sole discretion of the Civil Court therefore I found no substance in this appeal to consider. Hence, it is held that this Forum has no jurisdiction to entertain the issue of title and to decided it and hence this application/appeal stands dismissed.

### **ORDER**

The Application is hereby dismissed.

No order as to be cost.

**I Agree/Disagree**

**I Agree/Disagree**

**MRS. SHARMILA RANADE,  
MEMBER  
CGRF, BHANDUP**

**Dr. SANTOSHKUMAR JAISWAL  
CHAIRPERSON  
CGRF, BHANDUP**

**RAVINDRA AVHAD  
MEMBER SECRETARY  
CGRF, BHANDUP**

The order is issued under the seal of Consumer Grievance Redresses Forum M.S.E.D.C. Ltd., Bhandup Urban Zone, and Bhandup.

**Note:**

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address. " Office of the Electricity Ombudsman, Maharashtra

Electricity Regulatory Commission,606, Keshav Building,Bandra - Kurla Complex, Bandra (E),Mumbai - 400 051"

- b) b) consumer, as per section 142 of the Electricity Act, 2003, can approach Hon'ble Maharashtra electricity Regulatory Commission for non-compliance, part compliance or
- c) Delay in compliance of this decision issued under" Maharashtra Electricity Regulatory Commission ( consumer Redressed Forum and Ombudsman) Regulation 2003" at the following address:-

"Maharashtra Electricity Regulatory Commission, 13<sup>th</sup> floor,world Trade Center, Cuffe Parade, Colaba, Mumbai 05"

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.