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Office of Electricity Ombudsman

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2010/373

Appeal against Order dated 09.03.2010 passed by CGRF–BYPL in the complaint no. 169/11/09.

In the matter of:

Smt. Madhu Rani

- Appellant

Versus

M/s BSES Yamuna Power Ltd.

- Respondent -1

&

Shri Surinder Narang

- Respondent -2

Present:-

Appellant

The Appellant Smt. Madhu Rani was present through her husband Shri J.C. Narang and son Shri Sanjay Narang

Respondent

Shri G.S. Bisht, DFO

Shri Nikunj Malik, AMPS and

Shri Pawan Mahur, Legal Retainer attended on behalf of BYPL

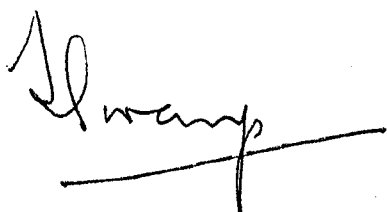
Shri Surinder Nargang was present in person alongwith his advocate Shri P.R. Chopra

Date of Hearing : 11.06.2010, 17.06.2010

Date of Order : 15.07.2010

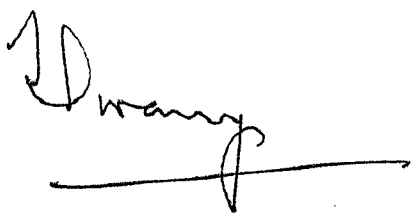
ORDER NO. OMBUDSMAN/2010/373

- 1.1 The Appellant Smt. Madhu Rani has filed this appeal dated 16.04.2010 against the order of the CGRF dated 9.3.2010 on the ground that the aforesaid order is wrong and not maintainable.



1.2 The brief facts of the case as per records and averments of the parties are as under:

- i) The Appellant is the sole owner of the premises A-72, Yojna Vihar, Delhi as per conveyance deed dated 24.06.1999. However, the ownership of the premises is under litigation between the Appellant and the Respondent No. 2, her son Shri Surender Narang, who is residing in one room of the same premises.
- ii) The Respondent No. 2 Shri Surinder Narang applied for a new electricity connection for the one room occupied by him but his application was rejected on the ground that he could not produce the required 'no objection' certificate from the owner of the property, alongwith other documents. Subsequently, he filed a suit for injunction in the Court of Hon'ble Civil Judge, Karkardooma, Delhi, against the Respondent No. 1 against rejection of his application for a separate electricity connection. The Hon'ble Civil Judge in his interim order dated 27.08.2008 directed the Respondent No. 1 to install a new meter to supply electricity to the room occupied by the Respondent No. 2, in the premises and directed that Shri Surinder Narang would pay the meter installation charges and the electricity bills as per the consumption shown by the meter every month.

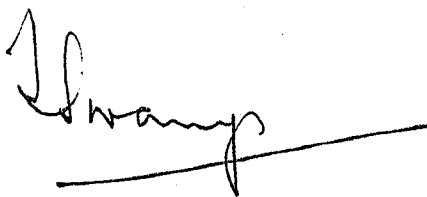


- iii) The Respondent No. 1, in compliance with the aforesaid order dated 27.08.2008 of the Hon'ble Civil Judge, installed and energized a separate electricity connection for the one room occupied by the Respondent No. 2.
- iv) The Hon'ble Senior Civil Judge vide his final order dated 20.10.2009 dismissed the suit of the Respondent No. 2 and also vacated the interim order dated 27.08.2008.

2.0 The Respondent No. 2 Shri Surinder Narang, filed a complaint dated 09.11.2009 before the CGRF requesting for restraining the Respondent No. 1 BSES-BYPL from disconnecting the electricity supply to his room.

2.1 The CGRF, after perusal of records and after hearing the arguments of the parties, in its order dated 09.03.2010, directed the Respondent No. 1 the BSES-BYPL to maintain status-quo and to continue the supply of electricity through the electricity connection installed as per the interim order of the Civil Judge dated 27.08.2008 for the one room occupied by the Respondent No. 2.

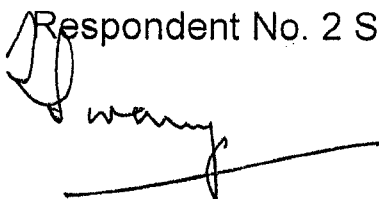
2.2 The Appellant Smt. Madhu Rani aggrieved by the CGRF's order dated 09.03.2010 has filed this appeal praying for disconnection of the electricity supply to the Respondent No. 2 because:



- a) The interim order of the Hon'ble Civil Judge, dated 27.08.2008 stood vacated as per the final order of 20.10.2009.
- b) The Respondent No.2 had been earlier giving supply through a sub meter as per direction of the Ld. ADJ in the suit pending before him about the dispute of ownership and for eviction of Respondent No.2. This supply through sub meter was disconnected by Appellant on non payment of dues. Therefore Respondent No.2 moved the civil court at Karkardooma and got connection as per the interim order which was vacated later on.
- c) The Respondent No.2 had not completed the required formalities as per the Regulations for a new connection and he had filed an affidavit of lawful occupation without any title deed. He had also suppressed material facts from the Forum.

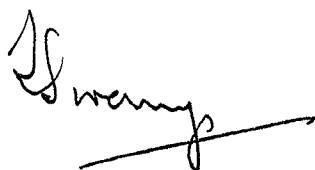
3.0 After scrutiny of the records and after obtaining requisite, clarifications from the parties, the first hearing in the case was fixed on 11.16.2010.

On 11.06.2006, the Appellant was present through her husband Shri J.C. Narang and son Shri Sanjay Narang. The Respondent No.1 was represented by Shri Pawan Mahur (Legal Retainer), Shri Nikunj Malik (AMPS) and Shri G.S. Bisht (DFO). The Respondent No. 2 Shri Surinder Narang was present in person.



3.1 The Appellant explained her case and requested for disconnection of the electricity connection provided to the Respondent No. 2 on the ground that he was not the legal occupier of the premises and had not paid the bills of electricity consumed by him through the sub meter installed as per the order of the Hon'ble Civil Court in 1999. She stated that a separate electricity connection was provided to the Respondent No. 2 by Respondent No.1 in compliance with the interim order of the Hon'ble Civil Court at Karkardooma, dated 27.08.2008, but the same was vacated by the final order of the Hon'ble Senior Civil Judge dated 20.10.2009. Hence this new connection should have been disconnected. Also she had been supplying electricity to Respondent No.2 through a sub – meter since 1999 as per the direction of the Hon'ble ADJ but he had not paid any amount towards the electricity dues for the last 11 years.

3.2 The Respondent No. 2 Shri Surinder Narang clarified that he was the occupier of the part of the premises for a long time and was also paying his share of electricity bills every month. The ownership of the premises was, however, under litigation. As such, he was entitled to electricity supply which was necessary for living in the house. He also requested for a copy of the appeal and rejoinder filed by the Respondent Nos.1 and 2 and asked for another opportunity of being heard to present his case after going through the documents. As per the request of the

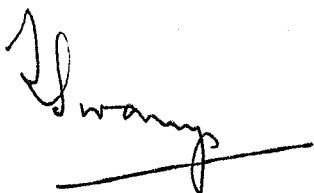


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Respondent No. 2, he was provided copies of the required documents and the next hearing was fixed on 17.06.2010.

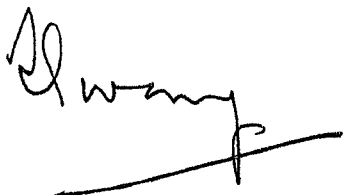
- 3.3 On 17.06.2010, the Appellant was present through her husband Shri J.C. Narang. The Respondent No. 1 was represented by Shri Pawan Mahur (Legal Retainer), Shri Nikunj Malik (AMPS) and Shri G.S. Bisht (DFO). Respondent No. 2 was present alongwith his advocate Shri P.R.Chopra.

The advocate of the Respondent No. 2 argued his case at length and prayed for continuation of electricity supply in the room occupied by the Respondent No. 2. He pointed out that his client was occupying the premises since a long time and was regularly paying his share of the electricity bills and was, therefore, entitled to electricity supply without a 'no objection certificate' from the owner of the premises. In support of his contention, he also filed the judgement of the Hon'ble Calcutta High Court: WP1768 of 2008, in which it was held that the requirement of a 'no objection certificate' from the owner of the premises was not mandatory for obtaining an electricity connection. He further submitted that the main suit between the parties about the ownership right was at the final stage of disposal by the Additional District Judge, Delhi and till the disposal of the suit electricity should be provided to Shri Surender Narang.



3.4 The Respondent No. 1 stated that in NCT of Delhi as per the DERC's Regulations a 'No Objection Certificate' from the owner of the premises was necessary for grant of a electricity connection, and without which the Respondent No. 2 could not be sanctioned an electricity connection.

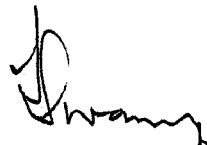
4.0 It is seen that as per the DERC Supply Code and Performance Standards, 2007, applicable in this case, it is mandatory for the occupier to produce proof of lawful occupation. The judgments of the Hon'ble Calcutta High Court cited by the advocate of the Respondent No. 2, is not therefore applicable in this case. It is, however, admitted by the Appellant and an undisputed fact that the Respondent No. 2 is residing in one room in the house for a long time and prior to 1999. It is also noted that the Hon'ble ADJ while hearing the main suit regarding ownership rights had issued an order for supply of electricity to Respondent No.2 through a sub meter, which was done from 1999 to 2008. Appellant however claims that she did not receive any payment for electricity consumed through the sub meter for about nine years, but did not bring this to the notice of the Hon'ble ADJ. The Respondent No. 2 claims that he has been paying the charges for consumption of electricity through the sub meter in cash, and did not get any receipt. Clearly the Hon'ble ADJ had directed for supply of electricity to Respondent No.2 pending a final decision on the ownership dispute. Moreover, the supply of electricity is indispensable for normal existence and as such, Respondent No.



2 is entitled to get electricity supply pending a final decision by the Hon'ble civil court regarding his legal occupation of a portion of the house.

- 4.1 It is a matter of record that the Appellant disconnected the electricity supply to the room occupied by Respondent No. 2 and his family, due to a dispute regarding payment of dues by the Respondent No. 2. Also the dispute about the ownership rights is at the final stage of disposal before the Additional District Judge. It would, therefore be, in the interest of justice that the Respondent No. 2 is allowed to use the new electricity connection sanctioned earlier till the final decision of the suit regarding ownership. Respondent No. 1, BSES-BYPL, however would ensure that the bills of electricity are not allowed to accumulate and are regularly paid by the Respondent No. 2. It is further clarified that the electricity connection provided to the Respondent No. 2 shall be disconnected in case the Hon'ble Additional District Judge decides the pending suit against the Respondent No. 2. I find no justification to interfere in the order of the CGRF-BYPL. The appeal is accordingly disposed of.

The Respondent No. 1 is directed to implement this order within 21 days from the date of this order.


(SUMAN SWARUP)
OMBUDSMAN

15th July 2010.