

OFFICE OF THE 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/2011/452

Appeal against Order dated 05.12.2011 passed by CGRF–BYPL in complaint No.198/08/11.

In the matter of:

Shri Vishnu Dutt Sharma - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent No. 1

Shri Laxman Dutt Sharma - Respondent No. 2

Present:-

Appellant The Appellant Shri Vishnu Dutt Sharma is present in person and

Respondent Shri Amit Prakash, Business Manager, Shri Sanjeev
No. 1 Kumar. S.O., and Shri Ravinder Singh Bisht, AG-II
attended on behalf of the BYPL.

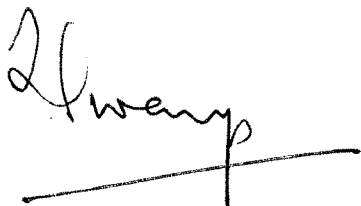
Respondent Shri Laxman Dutt Sharma, Respondent No. 2, was also
No. 2 present, in person.

Dates of hearings: 03.02.2012, 16.02.2012

Date of Order : 12.03.2012

ORDER NO.: OMBUDSMAN/2012/452

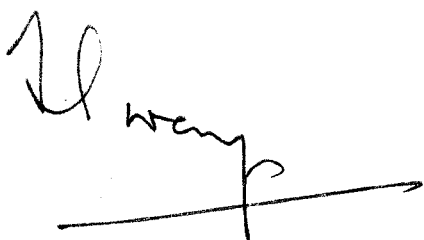
1.0 The Appellant, Shri Vishnu Dutt Sharma, son of the registered consumer Smt. Shakuntala Devi (the deceased), resident of H.No.1532, Gali No.28, Naiwala Karol Bagh, New Delhi-110005,



has filed this appeal against the order of the CGRF-BYPL dated 05.12.2011 in Complaint No.198/08/11 regarding change of name from Smt. Shakuntala Devi (the deceased) to Shri Vinshu Dutt Sharma, for connection bearing New K. No.114046200018 (CRN No.1140023091).

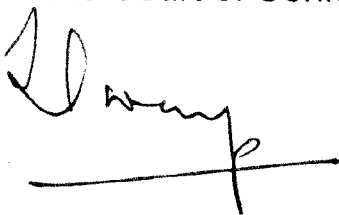
2.0 The background of the case as per the records is as under:

- 2.1 The Appellant had filed a complaint before the CGRF-BYPL on 17.08.2011 that he had applied to the Discom for change of name from Smt. Shakuntala Devi, who died on 06.12.2000, as per Death Certificate no.244813, to Shri Vishnu Dutt Sharma, as he is the legal heir of Smt. Shakuntala Devi, vide request no.R0309100000647 dated 03.09.2010, for electricity connection bearing new K. No.114046200018 (CRN No.1140023091) installed at H. No.1532, Gali No.28, Naiwala Karol Bagh, New Delhi-110005, with a sanctioned load of 3 KW for domestic purposes.
- 2.2 The Discom has stated that the name change was effected in the billing month of December, 2010 in favour of Shri Vishnu Dutt Sharma.
- 2.3 Subsequently, an objection was received from Shri Laxman Dutt Sharma, brother of the Appellant, who is also one of the legal heirs after his parent's death, for change in the name, from Smt. Shakuntala Devi to Shri Vishnu Dutt Sharma. The Discom has contended that a letter dated 06.01.2011 was issued to the

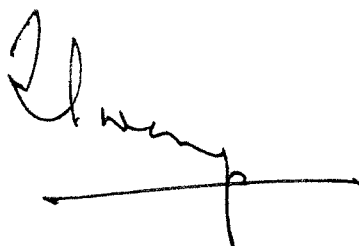


Appellant for providing an NOC from Shri Laxman Dutt Sharma on or before 20.01.2011, since he claimed to be the legal heir of Smt. Shakuntala Devi, as per the DERC Supply Code and Performance Standards Regulations, 2007. Due to non-submission of the required NOC from his brother, the name change was reversed from that of Shri Vishnu Dutt Sharma to that of Smt. Shakuntala Devi, vide intimation letter dated 02.02.2011, to the complainant.

- 2.4 The Forum considered the complaint of Shri Vishnu Dutt Sharma and heard Shri Laxman Dutt Sharma, as an interested party, to adjudicate the matter. Shri Laxman Dutt Sharma stated before the CGRF that he is also an equal shareholder of the property bearing No.1532, Gali No.28, Naiwala Karol Bagh, New Delhi-110005, as per the registered Will executed on 21.02.1997 by late Smt. Shakuntala Devi, their mother.
- 2.5 The Appellant stated before the Forum that late Smt. Shakuntala Devi, his mother, had sold a part of the property i.e. 1532, with respect to property no.1547, Gali No.28, Naiwala, Karol Bagh, New Delhi – 110005, in his favour, vide Sale Deed executed on 08.04.1997, and a Relinquishment Deed was executed on 10.02.2006 in his favour by all the other legal heirs, except Shri Laxman Dutt Sharma.
- 2.6 According to the DISCOM, a case regarding the property and in respect of its possession was already pending for adjudication in the Court of Senior Civil Judge, Tis Hazari Courts, Delhi.

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- 2.7 The CGRF-BYPL vide its order dated 05.12.2011 concluded that the complainant had failed to satisfy the requirement of a 'No Objection Certificate' from other legal heirs, and that rather his brother Shri Laxman Dutt Sharma, had filed his objection before the Forum, and also a civil suit was pending adjudication before the senior Civil Judge, Tis Hazari, relating to the dispute regarding the property, between the brothers. Thus, the complainant had not been able to fulfill the requirement for change of name as the only legal heir, and for the substitution of his name for the electricity connection (C.R. No.1140023091) existing in the property, in the name of Smt. Shakuntala Devi (the deceased). Therefore, the complainant was not entitled to the relief sought w.r.t. change of name as the only legal heir, and for sending of the bills in his name. Accordingly, the complainant's case was disposed of.
- 2.8 The Appellant, Shri Vishnu Dutt Sharma, not satisfied with the above order of the CGRF-BYPL, has filed this appeal on 19.12.2011 and has prayed that this Forum may set aside the order of the CGRF-BYPL dated 05.12.2011 and allow the application of the Appellant.
- 3.0 After receipt of the CGRF-BYPL's record and the para-wise comments from the Discom, the case was fixed for hearing on 03.02.2012. A notice was also issued to Shri Laxman Dutt Sharma, being one of the affected parties.

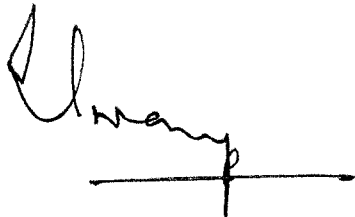
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On 03.02.2012, the Appellant, Shri Vishun Dutt Sharma, was present in person. The Respondent No.1 – the Discom, was represented by Shri Sanjeev kumar – Section Officer (Divison Shankar Road) and Shri Ravinder Singh Bisht – A.G. II (BYPL). Shri Laxman Dutt Sharma, Respondent No. 2, was present in person in response to notice issued to him. Both Shri Vinshu Dutt Sharma and Shri Laxman Dutt Sharma argued their case and were heard. The Respondent No.1 was asked to produce the K. No. file of the connection. Shri Laxman Dutt Sharma was also asked to produce a certified copy of the Will of his deceased mother, Smt. Shakuntala Devi. The case was fixed for further hearing on 14.02.2012.

3.1 The case was adjourned to 16.02.2012.

On 16.02.2012, the Appellant, Shri Vishnu Dutt Sharma was present in person. The Respondent No.1 was represented by Shri Amit Prakash – Business Manager (Shankar Road) and Shri Ravinder Singh Bisht – A.G. II (BYPL). The Respondent No.2, Shri Laxman Dutt Sharma, was also present. The documents asked for were filed by all the three parties and taken on record. The arguments of all were heard and the arguments closed.

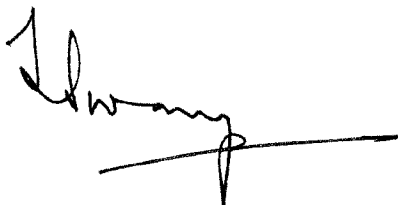
3.2 From perusal of the documents submitted by Shri Laxman Dutt Sharma (Respondent No.2), it is observed that through the registered will executed on 21.02.1997 by late Smt. Shakuntala Devi, she bequeathed that the property bearing No.: 1532/28, Nai



Wala, Karol Bagh, New Delhi, after her death, should devolve in favour of her two sons Shri Vishnudutt Sharma (Appellant) and Shri Laxman Dutt Sharma (Respondent No.2), to the exclusion of any of the other heirs or successors.

Further, the Appellant, Shri Vishnudutt Sharma, has already furnished the registered Sale Deed executed on 08.04.1997 by late Smt. Shakuntala Devi, his mother. It is also observed from the said Sale Deed that the Appellant had purchased one Built-up shop bearing No.1547 on the Ground Floor with the First Floor and its terrace rights, measuring 9'.3" x 9' built on the said property bearing No.1532, Ward No.XVI, Plot/Khasra No.896, measuring 117 sq. yds. in Block-E, Gali No.28-29, situated at Naiwala, Karol Bagh, New Delhi, in his favour. Accordingly, the Appellant's main contention is that he is the owner of the premises in which the electricity connection bearing K. No.114046200018 is installed, as per Relinquishment Deed executed on 10.02.2006 by all the legal heirs (sisters), except his brother, Shri Laxman Dutt Sharma (Respondent No.2).

- 3.3 It is observed that the CGRF is required to adjudicate on the dispute between the Consumer vs. Discom and the CGRF can act upon an application of a consumer or user only when there is an undisputed title/right, existing in favour of the complainant.

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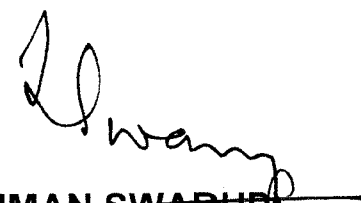
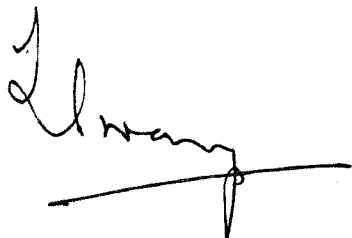
3.4 The matter of the dispute regarding ownership and possession of the property is sub-judice in the Civil Court for determining the ownership rights.

4.0 In view of the foregoing facts, the CGRF-BYPL's Order dated 05.12.2011 does not warrant any change, pending the decision regarding the ownership of the property by the Hon'ble Civil Court.

4.1 Further, the Discom should ensure that since the connection bearing K. No.114046200018 is in the name of a dead person, Smt. Shakuntala Devi, the premises being fed by this connection is clearly delineated/demarcated in their records so that, in case of the non-remittance of the bill on regular basis, by the legal heirs the connection can be disconnected. It should also be ensured that the existing connection is not extended to the other portions of the premises.

5.0 The appeal is disposed of accordingly. The Compliance Report of this order may be submitted within 21 days.

12th March 2012



(SUMAN SWARUP)
OMBUDSMAN