

OFFICE OF THE ELECTRICITY OMBUDSMAN

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

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone – cum – Fax No.011-26141205)

Appeal No.29/2018

(Against the CGRF-BRPL's order dated 17.09.2018 in CG No.79/2018)

IN THE MATTER OF

SHRI S.S. CHOUDHARY

Vs.

BSES RAJDHANI POWER LTD.

Present :

Applicant : Shri S.S. Choudhary, along with his
son Shri Ruby Singh Sehrawat.

Respondent (1): Shri Deepak Pathak (Advocate), Shri Prashant
Saxena, Sr. Manager and Sh. Manish Kumar,
Sr. Manager on behalf of BRPL.

Respondent (2) : Shri Rambhakt Agrawal, Advocate on behalf of
M/s Venture Tour and Packaging Pvt. Ltd.

Date of Hearing: 09.11.2018, 07.12.2018, 27.12.2018, 28.12.2018

Date of Order: 28.12.2018

FINAL ORDER

1. Shri S.S. Choudhary, the applicant , R/o C-10/3, Vasant Vihar, New Delhi – 57, has preferred a representation against the CGRF-BRPL's Order dated 17.09.2018 in CG No.79/2018 which came up for final hearing today i.e. on 28.12.2018. The applicant Shri S.S. Choudhary has been appearing along with his son Shri Ruby Singh Sehrawat, Shri Deepak Pathak, Advocate, Shri Prashant Saxena, Sr. Manager, Akhilesh Kumar, J.E., & Shri Manish Kumar appearing on Behalf of the BRPL (Respondent No.1) and Shri Rambhakt Agrawal, Advocate appearing on behalf of M/s Venture Tour and Packaging Pvt. Ltd. (Respondent No.2).

2. The facts in brief as emerged from the pleadings are that on 22.04.2014 a Conveyance Deed was carried out in favour of Sh.S. S. Choudhary and his brothers namely Sh. J.S. Choudhary, and Sh. R.P. Choudhary. As per this Conveyance Deed they are the joint owners / co-owners of the property bearing No.C-10/3, Vasant Vihar, New Delhi – 57 got in possession of different portion of the property in question and they started living as its exclusive owners.



3. A Collaboration Agreement dated 01.08.2014 was executed between Sh. S. S. Choudhary with one M/s Garg Villas Pvt. Ltd. through its Director Romi Garg for demolition of the property in question and for construction of a new building consisting of Basement, Stilt, Ground Floor, First Floor, Second Floor and Third Floor.

However, M/s Garg Vilas Pvt. Ltd. failed to complete the project within the time frame stipulated in Clause 8 of the said Agreement within 18 months from the signing of the Agreement and also failed to complete the project within the maximum additional period granted to them, it being 24 months from the date of signing of the Collaboration Agreement.

Therefore, on 05.09.2017, the applicant (Sh. S.S. Choudhary) and his brothers revoked the registered General Power Attorney /GPA dated 14.10.2014 and terminated the Collaboration Agreement dated 01.08.2014 executed by them in favour of M/s Garg Villas Private Ltd. and accordingly they also informed M/s Garg Villas Pvt. Ltd. vide legal notice dated 25.09.2017.

4. Available records reveal that M/s Garg Villas sold the entire First Floor of the property to Sh. Kapil Garg vide Registered Sale Deed on 10.08.2017. Thereafter, Shri Romi Garg alongwith Shri Kapil Garg, both Directors of M/s Garg Villas Pvt. Ltd. started repeatedly threatening to Sh. S. S. Choudhary and his son to vacate the property and hand over the property in question to the Director of M/s Garg Villas Pvt. Ltd.

5. Subsequently, the brothers of the other two objector/owner viz Shri Joginder Singh Choudhary and Shri Rajinder Prakash Choudhary filed two Petition's against Sh. S.S. Choudhary under Section 9 and Section 11 of the Arbitration and Conciliation Act, 1996 before the High Court of Delhi vide O.M.P. (I) 3/2018 which **was finally disposed off with the directions that the interim order dated 02.02.2018 & 23.02.2018 of the Hon'ble High Court shall continue to operate for a period of six weeks from the date of receipt of the order to enable the petitioners to move the appropriate Court by way of a suit action. In case the suit action is not filed within the aforementioned timeframe, the interim protection granted by the order dated 02.02.2018 and 22.03.2018 will dissolve. Meanwhile the Hon'ble Civil Court of Sh. M.K. Kashyap had granted 'status quo' over the disputed property vide order dated 19.08.2017 & 26.08.2017.**



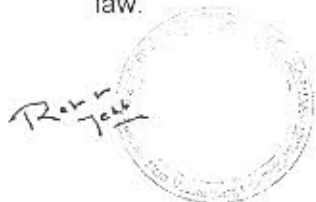
Consequently, on the basis of Registered Sale Deed dated 10.08.2017, Sh. Kapil Garg, Authorised Representative of M/s Venture Tour and Packaging Pvt. Ltd. applied for release of new connection at their premises at First Floor, C-10, Vasant Vihar, New Delhi – 110057. The application was declined by the Respondent (BRPL) due to stay order, property dispute and objection letter received from the Applicant Shri S.S. Choudhary.

6. On 10.04.2018, the case was filed before the CGRF by Sh. Kapil Garg, Authorised Representative of M/s Venture Tour and Packaging Pvt. Ltd. with a request to direct the Respondent No.1 (BRPL) to release the new connection immediately, which was declined by the Respondent No.1(BRPL) due to stay order, property dispute and objection of Shri S.S. Choudhary.

7. Shri S.S. Choudhary had vehemently opposes in granting electricity connection to M/s Venture Tour and Packaging Pvt. Ltd. on the ground that the property in question was under litigation and matter being sub-judice, the electricity connection cannot be granted particularly when 'Status Quo' be maintained as per direction of Hon'ble Civil Court Patiala House.

Sh. S.S. Choudhary had filed a suit for Permanent Injunction before the Patiala House Court titled as "Sukhbir Singh Choudhary Vs. M/s Garg Villas Pvt. Ltd. & Others. bearing CS No. 1018/17, seeking restraint order against M/s Garg Villas Pvt. Ltd. and any person acting on his behalf from dispossessing them and an order dated 19.08.2017 was passed by the Hon'ble JSCC/ASCJ/GJ, Shri Naveen Kr. Kashyap, Patiala House Court in CS No.1018/17 "that in order to preserve the suit property in question, all parties are directed to maintain status quo and as on today status quo is maintained which was further retreated vide order dated 26.08.2017.

8. The Discom contended before the CGRF that they have already rejected the request of M/s Garg Villas Pvt. Ltd. for new connection in its name on dated 31.08.2017 as per the objection raised by the owners of the property in question on 28.08.2017 and the Hon'ble Court's order for maintaining 'Status Quo for Basement Floor, Stilt, Ground Floor, Second Floor, Third Floor and the case is already sub-judice for the ownership. Due to dispute of ownership, Discom had rejected the New Connection. When they get clear direction from Hon'ble Court the new connection will be installed and temporary connection will be removed. The Discom has also stated that the new connection applied by M/s Venture Tour and Packaging Pvt. Ltd on the basis of Sale Deed dated 10.08.2017 alleged to have been executed by M/s Garg Villas Pvt. Ltd. is also not a valid document and hence not enforceable under the law.



9. After perusal of orders, records and arguments made by both the parties the CGRF passed their final order dated 17.09.2018 and granted permission to release the electricity connection in f/o M/s Venture Tour and Packaging Pvt. Ltd. who has claimed to be occupier of the first floor of the property namely C-10/3, Vasant Vihar, New Delhi.

10. Dissatisfied with the CGRF's order dated 28.12.2017, Sh. S.S. Choudhary the Applicant has filed this representation and requested to set aside the said CGRF order as the CGRF failed to appreciate that the property in question is a disputed property and the matter is still sub-judice before the Court of law in Patiala House Court presided over by Hon'ble Shri Naveen Kr. Kashyap, JSCC/ASCJ/GJ, New Delhi who in a separate petition but connected with the disputed property and given order for status quo to be maintained as on 19.08.2017 and same status-quo further extended from time to time vide orders dated 17.07.2018 and 30.07.2018.

He also argued that M/s Venture Tour and Packaging Pvt. Ltd. is neither owner of the property nor he is in occupation of the said property. Hence, no permission can be granted to M/s Venture Tour and Packaging Pvt. Ltd. seeking electricity connection from the Discom viz. BRPL to release the connection.

11. M/s Venture Tour and Packaging Pvt. Ltd. (Respondent No.2) argued during the final hearing held on 28.12.2018 that he is the valid purchaser of the property i.e. C-10/3, Vasant Vihar, 1st Floor, New Delhi – 110057 for valuable consideration and entitled to all benefits flowing out of his purchase of the property. He is very much in possession of the property and also using the Temporary Connection CA No.350536874. Further, the Application Form for new connection dully filed in with all the required details and alongwith all the required documents, was also submitted with the BRPL.

He also stated that the averment of Sh. S.S. Choudhary regarding the 'status quo' order granted by the Hon'ble Court vide its order dated 17.07.2018 that electricity connection at C-10/3, Vasant Vihar, 1st Floor, New Delhi – 110057 cannot be provided by BRPL, is absolutely unfounded as there is no such order of restraint against the respondent no.2 or the BRPL and in favour of Shri S.S. Choudhary. The Respondent No.2 has not been made a party to that case and neither the BRPL has been made a party to it. Thus any order of status quo or otherwise or through any judgment can never be applicable to the respondent No.2 or BRPL and there is no stay or status quo regarding a fresh electricity connection or withholding the essential services of electricity supply to C-10/3, Vasant Vihar, 1st Floor, New Delhi – 110057.



M/s Venture Tour and Packaging Pvt. Ltd. (Respondent No.2) also prayed to vacate the stay order granted vide Interim order dated 09.11.2018 by the Electricity Ombudsman in f/o the applicant against the CGRF order dated 19.08.2018 and confirm the said CGRF order and release the electricity connection in f/o the respondent No.2 and also instruct the respondent No.1 (BRPL) to install the so-released electricity connection at the property bearing no. C-10/3, Vasant Vihar, 1st Floor, New Delhi – 110057 within 3 days of the order and take help/protection of the local police if required.

12. During hearing held on 28.1.2018 when asked about the authenticity of the document for releasing the electricity connection to Respondent No.2 i.e. M/s Venture Tour and Packaging Pvt. Ltd. on the basis of the order of the CGRF, the Respondent No.1 (BRPL) through its Authorized Representative has submitted an Affidavit on behalf of Respondent No.1 (BRPL) during the final hearing held on 28.12.2018 and has stated that M/s Venture Tour and Packaging Pvt. Ltd. had applied for a new electricity connection on First Floor of House No. C-10/3, Vasant Vihar, New Delhi – 110057 through its authorized representative Mr. Lalit Kumar and submitted the following documents along with the application form for sanction / release of new electricity connection at the First Floor of House No. C-10/3, Vasant Vihar, New Delhi – 110057.

- a. Attested copy of the Aadhar Card and Passport of Mr. Lalit Kumar.
- b. Attested copy of the Passport of Mr. Lalit Kumar.
- c. Attested copy of PAN Card of Ventrue Tour and Packaging PVT. Ltd.
- d. Attested copy of Sale Deed executed on 10.08.2017 in favour of Venture Tour and Packaging Pvt. Ltd.
- e. Attested copy of Memorandum of Association & Article of Association of the Company (Respondent No.2)

13. The BRPL (Respondent No.1) has further stated in the affidavit that they sanctioned / released the electricity connection to M/s Venture Tour and Packaging Pvt. Ltd. for First Floor of House No. C-10/3, Vasant Vihar, New Delhi – 110057, in strict adherence to Delhi Electricity Regulatory Commission (Supply Code and Performance Standards) Regulations, 2017 after ascertaining that the Respondent has filled the requirement as provided in the said Code.

However, the Authorized Representative of the BRPL during the hearing on 28.12.2018 has also submitted that the electricity connection was released to M/s Venture Tour and Packaging Pvt. Ltd. on the order of CGRF and accordingly the papers/documents submitted by M/s Venture Tour and Packaging Pvt. Ltd. with the application form were checked and found in order.



14. In view of the available records and submissions made by the Respondents and the Applicant including M/s Venture Tour and Packaging Pvt. Ltd., it is clear that there is a serious, ongoing dispute amongst the parties over the title and ownership of the property in question. This dispute is presently pending in the Hon'ble Civil Court for a resolution with an interim direction from the Hon'ble Judge that both the parties maintain the status quo with respect to the suit property for the present.

15. Accordingly, pending disposal of the litigation in the Hon'ble Civil Court or any other Court in connection with suit premises / property in question. The order of 'Status Quo' passed by the Hon'ble Civil Court in Patiala House to be maintained by all the parties.

The matter is disposed off with such direction. Order accordingly.


(Rakesh Kumar Mehta)
Ombudsman
28.12.2018