

**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-cum-Fax No.: 011-26141205)

**Appeal No.760/2016**

**IN THE MATTER OF:**

Shri Sunder Lal and Others - Appellants

Vs.

M/s Tata Power Delhi Distribution Ltd. – Respondent

(Appeal against order dated 01.09.2016 passed by CGRF- TPDDL in CG No. 7269/05/16/KPM)

**Present:**

Appellant:

- 1. Shri Sunder Lal and others – Appellants with
- 2. Shri MK Gill, Advocate

Respondent No. 1:

- 1. Shri Vivek, Senior Manager (Legal), TPDDL
- 2. Shri Anirudh Sinha, Asstt Manager, TPDDL , authorised representatives

Respondent No. 2:

- 1. Smt Savita Ahuja
- 2. Shri Shatrughan Ahuja
- 3. Shri Jai Kumar

Dates of Hearing: 15 .12.2016 and 21 .12.2016

Date of Order: 26.12.2016

**ORDER**

1. Appeal no.760/2016 has been filed by Shri Sunder Lal and Others, residents of C-55, Ashok Vihar, Phase-1, Delhi-110052, against CGRF-TPDDL's order in CG No.7269/05/16/KPM dated 01.09.2016.

2. The background of this case is that the Appellants, Messrs Sunder Lal Ahuja, Vicky Ahuja and Bharat Lal Ahuja, had approached the CGRF in May, 2016, alleging that the Discom (Respondent No. 1) had illegally granted an electricity connection to their uncle, Shri Shatrughan Ahuja, without the consent of the owners of the property and further alleging that the said property is under the illegal occupation of their uncle's son, Jai Kumar, who has obtained the connection in connivance with the Discom and the local police.

3. According to the Appellants, electricity was disconnected in the year 2008 for non-payment of dues. A final settlement was subsequently reached with the Discom through which outstanding dues amounting to Rs. 2.3 lakhs were paid by the

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Appellants in August and October, 2009 with remarks clearly stating that a new connection would be provided to the legal heirs on the submission of a "no objection certificate" from the owners of the property. Shri Jai Kumar, however, approached the CGRF for the release of a domestic connection in the name of his father, Shatrughan Ahuja, which was allowed by the Forum through its interim orders dated 9<sup>th</sup> & 12<sup>th</sup> May, 2016. The Appellants contested this before the Forum, arguing that the connection had been released without a NOC from the legal heirs and owners of the property. The CGRF did not accept their plea on the grounds that it could not review its own order while directing the Discom to examine the veracity of the documents submitted by Jai Kumar since the Appellants had alleged that they were forged. In the present appeal against the order of the CGRF, the Appellants have sought the disconnection of the connection granted to Shri Shatrughan Ahuja as well as a compensation of Rupees one lakh for losses and harassment etc.

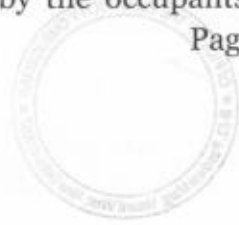
4. The Discom's rejoinder is that Shatrughan Ahuja had applied for a domestic connection in September, 2013 and had paid the demand note raised but the meter could not be installed due to family disputes and objections to its installation. His request was, therefore, kept under suspension. Subsequently, his son, Jai Kumar, approached the CGRF in 2016 seeking the connection. The CGRF delivered a verdict in his favour on 09.05.2016, directing that the connection be released and, if required, police protection be sought. The meter was accordingly installed on 19.05.2016 in accordance with the rules and formalities prescribed by the DERC in its Supply Code & Performance Standards Regulations of 2007. The Discom has added that they are under universal obligation to provide electricity connections to the consumers on the completion of requisite formalities and payments and that it is not within the Discom's remit to go into issues relating to titles/rights to the premises or whether the documents are forged or fabricated with the remedy for the latter lying with the competent civil/criminal Courts.

5. I have heard the Appellants and the Discom and gone through the material on record. In the interests of justice, the affected party, namely Shri Shatrughan Ahuja and his son, Jai Kumar, were also summoned to the second hearing with Smt Savita Ahuja, Shri Shatrughan Ahuja's spouse, presenting arguments on behalf of her family. Reduced to its essentials, the main issue revolves around the demand of the Appellants that the electricity connection granted to their uncle, Shatrughan Ahuja, be disconnected as it has allegedly been done illegally on the basis of forged/fabricated documents and without obtaining an NOC from the owners of the premises in question as well as alleging connivance between the Discom and the Police in installing the connection.

6. Section 43 of the Electricity Act, 2003 mandates the Discom to provide a connection when applied for by the owner or occupier of any premises within a month after receipt of the application. The Appellants, in their representation dated 23.05.2016 to the Discom as well as during the hearing, have themselves admitted that Jai Kumar, the son of Shatrughan Ahuja, is in occupation of the third floor of the property in question. This was also affirmed by his mother, Smt Savita Ahuja, during the second hearing who stated that her family is in occupation of the third floor of the premises as lawful owners as per the family division of the property.

7. The basic question which emerges here is whether it would be lawful to disconnect a service/utility granted to and being enjoyed by the occupants of the

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premises and for which payment are being made by them. There are two case histories, among others, which have held that the lawful occupier means an actual occupier in a settled position. In Ramegowda vs. Varadappa Naidu (AIR 2004, SC 4609), the Hon'ble Supreme Court had held that even a trespasser, who was in settled position in the premises, was entitled to certain protections under law even against the true owner. In another dictum, the Hon'ble Calcutta High Court, in Abhimanyu Mazumadar vs. Superintending Engineer and Anr. (AIR 2011, Calcutta 64), held that the Electricity Act, 2003 does not incorporate any provisions for the resolution of disputes as to the status of the occupier of a property for which an electricity connection is being sought and held that a lawful occupier meant an actual occupier in a settled position. In the present case, therefore, Shatrughan Ahuja and/or his son Jai Kumar, can be considered as occupiers of the premises they have access to for the limited purposes of granting an electricity connection notwithstanding any dispute as to the status of their rights/titles over the property in question. The grant of an electricity connection, which is today one of the basic necessities of life, cannot be denied merely on the objection of other parties. An electricity connection is only a service or utility provided to a consumer by the Discom against payment – its mere provision does not authorize, confer or establish any titles or proprietary rights whatsoever over the property in which he or she happens to be residing.

8. The Appellants have alleged that the GPA submitted by Shatrughan Ahuja is forged/fabricated. It is neither within the remit of the Discom nor their capability to ascertain or establish the legality of the claims being made by the concerned parties to the rights/titles over the property in question. The remedy for this is before the civil Courts whose verdict and directions would, in any case, be automatically binding on all parties including the Discom.

9. I find no reason to disagree with the contention of the Discom that they cannot be expected to inquire into the veracity or validity of documents submitted in support of a request for an electricity connection. As occupiers of the premises in question, Shri Shatrughan Ahuja and/or his son Jai Kumar, are fully entitled to enjoy the facility of an electricity connection as long as they make requisite payments for the same. The issue of an NOC from the Appellants before the grant of a connection does not arise as the relationship here is not that of a landlord and tenant. The question of whether they are in illegal occupation of the premises or not or whether the documents submitted by them were forged or not are not for the Discom to establish – that would have to be agitated by the Appellants before the appropriate civil Courts. There are no grounds, therefore, to interfere with the end product of the CGRF's verdict although the Forum could and should have issued a more detailed speaking order explaining the basis on which it had declined the Appellants' plaint.

The Appellants' plaint, along with their claim for compensation, accordingly, stands dismissed.

*Sundaram Krishna*  
**(Sundaram Krishna)**  
**Ombudsman**  
**26.12.2016**

