

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 23 OF 2023

In the matter of new connection

Mohammedali T. Merchant..... Appellant

V/s.

Brihanmumbai Electric Supply & Transport Undertaking (C Ward) Respondent No.1
(BEST Undertaking)

Zainab Dhuliwala Respondent 2

Fatema H. Rassiwala Respondent 3

Esmile E. Rassiwala Respondent 4

Mariam E. Rassiwala Respondent 5

Appearances:

Appellant: 1. Raj Merchant, Representative
2. Shamim Merchant, Representative

Respondent No. 1: 1. Shrimant M. Virkar, Supdt. Engr.
2. Smita D. Wankhede, Asst. Engr.
3. Jagdish K. Boricha, Supervisor

Respondent No. 2: 1. Zainab Dhuliwala
2. Esmile Merchant

Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 24th April 2023

Date of Order : 19th June 2023

ORDER

This Representation was filed on 17th February 2023 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order



(Dilip Dumbre)
Secretary

Electricity Ombudsman Mumbai




dated 8th February 2023 in Case No.474-2022 passed by the Consumer Grievance Redressal Forum, BEST Undertaking (the Forum).

2. The Forum, by its order dated 08.02.2023 has dismissed the case in Case No. C-474-2022 by observing that -

“Considering all the aforesaid facts and circumstance of the case, we have come to the conclusion that the claim of the complainant that he is the exclusive occupier of the premises cannot be sustained so as to grant electric connection in his exclusive name in respect of the premises i.e. shop no. 4 described above without NOC of the Respondent Nos. 2 to 5 who have raised the objection about giving electric connection in the exclusive name of the complainant is false and therefore the complainant is not entitled to get the electric connection without NOC of the Respondent Nos. 2 to 5.”

3. The Appellant filed this Representation against the order dated 08.02.2023 passed by the Forum. The hearing was held physically on 24th April 2023 when all the parties in the Representation were present. Parties were heard at length. The submission and arguments of the Appellant are stated in brief as below: -


- (i) The Appellant is the co-owner of the building known as “Rassiwala Building” of Ground + 3 floors at Plot No.32-40, 2nd Marine Street, Dhobi Talao, Near Gol Masjid, Mumbai 400 002. This building has tenants in various flats / shops.
- (ii) One Mr. Nathumal Dharamraj Singhvi alias Nathulal Dharamraj was the tenant in respect of Shop No.4 on the ground floor of the said building. The said shop had an electricity meter bearing consumer no. 335-263-005 in the name of the said tenant.
- (iii) The tenant had sub-let the shop to one Mr. Sureshkumar Khyalilal Mandot. The Appellant, after gaining knowledge about the subletting, and being one of the landlords, filed a suit bearing RAE Suit No. 260 of 2020 in Small Causes Court at Mumbai for eviction of the tenant Mr. Nathumal. However, during the pendency of the said suit, Dharamchand Nathulal Jain alias Singhvi and his brother Madanlal Nathulal Jain alias Singhvi, the sons of the said tenant, approached the Appellant


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



and informed him about the death of the said tenant. They also informed the Appellant that they were ready and willing to surrender the said shop and willing to handover quiet, vacant, and peaceful possession of the same to the Appellant, and requested that the suit filed by the Appellant be withdrawn.

- (iv) Madanlal Nathulal Jain alias Singhvi, for himself and as the Power of Attorney holder of his brother Dharamchand Nathulal Jain alias Singhvi executed a Surrender Deed dated 14.10.2022. Sureshkumar K. Mandot was a confirming party to the said deed, and on the same day of execution of the surrender deed, the possession of the said shop was handed over to the Appellant by Sureshkumar for a consideration amount of Rs. 35 lakhs. After execution of the said surrender deed, the Appellant on 15.10.2022 withdrew the RAE Suit No. 260 of 2020 for eviction.
- (v) After taking possession of the said shop, the Appellant came to know that the electric meter was removed by the Respondent No.1 for non-payment of dues of electricity bills in 2019. The Appellant made a fresh application on 18.10.2022 along with all relevant documents before the Respondent No.1 for a new connection of electric meter in the said shop. However, the Respondent No.1 informed the Appellant to first clear the outstanding dues. Immediately on the said day, the Appellant paid the outstanding dues of Rs.9820/-. This fact was not appreciated by the Forum.
- (vi) On 21.10.2022, the Respondent No.1 issued a letter to the Appellant informing that the said application would be sanctioned subject to the production of the required documents namely latest rent receipts, latest MCGM tax extract, NOC of all co-landlords, and recovery of outstanding dues / vigilance claim / proclaim, if any, of the old consumer a/c no. 335-263-005.
- (vii) The Appellant replied by a letter dated 25.10.2022 annexing the required documents, and also informed that NOC of other co-landlords is not required as the Appellant himself is one of the co-owners. However, on 20.10.2022, the Respondent No.4 (Esmile Rassiwala) issued a letter to the Respondent No.1, raising an objection for the new meter, and requested that the meter should be installed in the original tenant's name only. On 21.10.2022, the other Respondents Nos. 2 to 5 also issued a letter to the Respondent No.1, and an objection was raised


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




that the occupation of the Appellant was illegal / bad in law / null and void, and therefore new electric meter in the name of Appellant, not be sanctioned.

- (viii) The Appellant filed a complaint on 29.11.2022 with the Forum and the same was registered on 30.11.2022 as Grievance No.C-474-2022. The Forum by its order dated 08.02.2023 dismissed the grievance with observation as captured in Para 2. Meanwhile, the Respondent No.1 on 30.11.2022, issued another letter to the Appellant to furnish valid occupancy proof and NOC from other co-landlords.
- (ix) The Appellant being aggrieved by the Forum's Order has preferred this Representation on the following grounds: -

- A. The Supreme Court in its Judgement dated 13.05.2022 in CA No. 810 of 2022 has observed that electricity is a basic amenity of which a person cannot be denied on the ground of failure / refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine is whether the applicant for electricity connection is in occupation of the premises in question.
- B. The Appellant referred the Judgement of the Supreme Court dated 13.05.2022 in Criminal Appeal No. 810 of 2022 (arising out of special leave petition (CRL) No. 8917 of 2019 in Case of Dilip(Dead) through LRS. V/s Satish Others in support of his case. Even the Delhi High Court has relied on the Supreme Court ruling in Dilip (D) Vs. Satish, and directed the BSES to process the application for fresh electricity connection forthwith without insisting on NOC.
- C. The Appellant cited the Judgement dated 25.08.2021 of the High Court of Delhi in W.P. (C) 7846 /2021. The relevant content of the said Judgement is reproduced below:

“It is clarified that the grant of electricity connection or this order would not confer any special equities in favour of the petitioner and would not be construed as conferring or recognising the title the petitioner to the said property or with regards to the identity of the said property.”


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- D. The Forum erred in not considering the judgment dated 19.12.2022 passed by the Hon'ble High Court of Punjab and Haryana at Chandigarh in the matter of Om Prakash Versus Balkar Singh & Others wherein they have also noted that-


“Admittedly, respondent has filed a suit for possession of the suit property along with recovery of mense profits, which is still pending adjudication, therefore, the question as to whether the Applicant is an illegal occupant of the suit property or not, or as to whether he is liable to be evicted or not, would be a matter of trial. The fact of the matter is that the Applicant is in possession and still further his eviction has not yet been ordered by a competent court of law.

It cannot be over-emphasized that electricity being a basic necessity, is an integral part of right to life as enshrined under Article 21 of the Constitution of India. Therefore, as long as the Applicant is in possession of the suit property, he cannot be deprived of electricity.”

- E. The Appellant is a co-owner of the said building; hence NOC of other co-landlords is not required.
- F. The Forum erred in not considering the judgment dated 25.01.2018 passed by the Hon'ble Supreme Court of India in the matter of Kanaklata Das & Ors. Versus Naba Kumar Das & Ors. wherein in para 20 it has been made clear that *“if there are co-owners or co-landlords of the suit premises, then any co-owner or co-landlord can file a suit for eviction against the tenant”*.
- G. The Forum failed to appreciate the fact that, the Appellant had relied upon the surrender deed dated 14.10.2022 and order dated 15.10.2022 passed by the Hon'ble Small Causes Court at Mumbai to prove that the Appellant is in possession / occupation of the said shop. The Forum has no jurisdiction to decide whether the said title documents are false, baseless or bad in law. Also, the Forum had no jurisdiction to try and entertain the objections raised by the other co-owners.

(x) The Appellant prays : -

- a. To quash and set-aside the order of the Forum.



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- b. Respondent No.1 be directed to provide a fresh electricity connection forthwith without insisting on NOC from Respondent Nos. 2 to 5.

4. The Respondent No. 1, BEST Undertaking filed its reply dated 17.03.2023. Its submission and arguments are stated in brief as below:

- (i) The Appellant submitted an application No.532658 dated 18.10.2022 for the reconnection of meter at Shop No.4, Ground Floor, Building No.32/44, Rassiwala Building, 2nd Marine Street, Dhobi Talao, Mumbai – 400 002.
- (ii) The electric connection was sanctioned on 21.10.2022 subject to compliance of the following documents:-
- a. Latest rent receipt of the premises in the applied name (in case a tenant is the applicant).
 - b. Latest MCGM tax extract showing premises.
 - c. All co-landlords NOCs to install meter for the premises.
 - d. Recovery of outstanding dues / Vigilance claim / pro-claim, if any of old consumer's Account No. 335-263-005.
- (iii) In response, the Appellant submitted the following documents.
- a. Declaration of Surrender agreement dated 14.10.2022.
 - b. General Power of Attorney dated 29.09.2022.
 - c. Old Rent Receipt (i.e. Month of April-2008 to March-2009) of applied premises in the name of Nathulal Dharamraj.
 - d. MCGM Property extract.
 - e. Letter from MHADA dated 24.08.2016.
 - f. Copy of the judgment ARC No. 29774/16 (Hari Mohan V/s. S.K. Marwalia) of Delhi District Court.
 - g. Order copy of criminal Appeal No. 810 of 2022.
- (iv) Meanwhile, objection letters dated 20.10.2022 and 21.10.2022 were received from the other co-landlords.
- (v) While scrutinizing the documents, it was seen that the Appellant did not submit valid occupancy proof of the premises and NOCs from other co-landlords. Vide letter CCC/CM/1349/2022 dated 30.11.2022, the Appellant was informed to


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




furnish valid occupancy proof and NOCs from other co-landlords to process the application further, as objection regarding right of ownership of the said premises (shop no.4) was already raised by other co-owners. In other words, the co-owners have claimed that they all are co-owners of shop no.4, and not the Appellant alone.

(vi) Previously, the meter no. 1207136 for the said premises was in the name of the tenant / consumer Shri Nathulal Dharamraj (Consumer No. 335-263-005). This meter was removed on 07.09.2022 for non-payment. The Appellant registered a request No. 532658 dated 18.10.2022 for reconnection of the meter. The pending outstanding dues for the said meter were paid by the Appellant.

(vii) The Appellant has alleged that NOC of other co-landlords is not required. The Application of the Appellant was sanctioned subject to the compliances as stated above. Meanwhile, the Respondent received dispute letters dated 20.10.2022 from Zainab Rassiwalla wherein she has mentioned that *“the meter should be installed in the original tenant’s name only, and stop installation of the new meter with immediate effect. the said building is jointly owned by 6 co-landlords of the building, who are equally owners of the building.”* Similar objection letters dated 21.10.2022 were received from other co-landlords viz. Mrs. Fatema H. Rassiwalla, Mrs. Esmile E. Rassiwalla and Mrs. Mariam E. Rassiwalla. Their say is mentioned below:

Nathumal Dharamchand Singhvi & Madanlal Nathulal Singhvi were the sons of the earlier consumer / tenant of the above-mentioned premises i.e. **Shop No.38, Grd.Floor, and Room No.13, 2nd Flr., 32-40, Rassiwala Bldg., 2nd Marine Street, Dhobi Talao, Mumbai – 400 002.** They alleged that the occupation of Shri Mohammadali Merchant is illegal / bad in law / null & void. Therefore they have raised an objection for the allotment of new meter in the name of Shri Mohammadali Merchant or any of his legal heirs. There are six equal co-owners of the said building. Also, the previous consumer Shri Nathumal Dharamchand Singhvi is dead.


(viii) Due to this dispute among Co-landlords, the matter was referred to the Legal Department on 14.11.2022. The Legal Department gave the following opinion on 28.11.2022:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



*“The applicant has not provided the valid documents of his exclusive rights of ownership upon the requisitioned premises and the objection as to the rights of the ownership for the same has been already raised by same co-owners of the said building of the requisitioned premises. Further, the occupation of the applicant to the said premises is not seems to be in the **settled possession**. In the above circumstances, the requisition for the said premises is not entitled to be processed”.*


- (ix) The said premises (shop) was unoccupied since 2018. The occupation of the Appellant to the said premises does not seem to be in settled position. The submitted documents are not sufficient to prove that the Appellant is the exclusive occupier of the premises. The persons who have signed the purported Surrender Deed of tenancy (Madanlal Nathulal Jain alias Singhvi) were not the heirs of the original tenant Shri Nathulal Dharamraj Jain alias Singhvi. The rent receipts submitted by the Appellant for the said shop are also false and fabricated documents, and thus cannot be genuine proof of exclusive possession over the premises. Also, the said Surrender Deed is only notarized and not registered.
- (x) The Surrender Deed submitted by the Appellant has been signed by Shri Madanlal Nathulal Jain alias Singhvi and on behalf of his brother Shri Dharamchand Nathulal Jain alias Singhvi. According to the Appellant both these persons are legal heirs of the original tenant Shri Nathulal Dharamraj Jain. However, the PAN Card annexed to the said Deed of surrender of tenancy shows that the name of person on PAN Card is Madanlal Nathulal Jain, son of Nathulal Nemichand Jain, which differs from the name of the original tenant.
- (xi) The Appellant has produced rent receipts related to the original tenant for the period from April 2010 to March 2011, **April 2011 to March 2012**, April 2021 to March 2022 and April 2022 to September 2022. All these receipts do not bear imprinted serial numbers. The said matter became clear more when the other co-landlords produced the rent receipts before the Forum for the period from **April 2011 to March 2012** having imprinted serial numbers.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- (xii) The MCGM tax extract indicates the name of the Appellant as a taxpayer of the said building. This only indicates that the tax has been paid by the person; it does not mean that he is the owner of that premises.
- (xiii) The Respondent No. 1, BEST Undertaking prays that the Hon'ble Electricity Ombudsman may direct the Appellant to produce valid documents along with the NOCs from other co-landlords.
5. The Respondents No. 2, 3, 4 and 5 also filed their reply in common vide email dated 14.03.2023 and the said submission and contention is stated in brief as below:

- The instant Representation against the application asking for commercial connection for Shop No. 4, 32-44, Rassiwala Building, in favour of the Appellant ought to be dismissed, as **the Appellant has already filed a writ petition in the Bombay High Court on 14.02.2023 in WP/2711/2023; hence the matter is sub-judice.**
- No consent by co-owners – (1) Fatema H. Rassiwala, (2) Mariam E. Rassiwala and (3) Esmile E. Rassiwala strongly oppose the application for issuance of commercial electric meter connection in favour of the Appellant, as the same is made with malafide intention to take illegal possession of the said Premises without their consent. The Appellant has relied on Hon'ble Supreme Court Judgment stating that electricity connection should not be refused as the same is a basic necessity. However, the Appellant has completely misrepresented the Judgments, as it was in **respect of allowing electricity to a needy tenant who was in possession of the premises.** In the present case, the Appellant himself is a co-owner of the Premises, and he has other several sources of income. Further he was never in occupation of the said Premises. **The said Premises was forcefully occupied by the Appellant without any authority or consent of other co-owners.**
- Illegal and unauthorised occupation of Shop No. 4 by the Appellant is as follows:
- a. Mr. Nathulal Dharamraj Jain alias Singhvi was the original tenant of the said premises who passed away. After his demise, for a limited time, a caretaker named Mr. Suresh Mandot was using the premises. Since **2018-19** no one was occupying/using the said premises and the same was vacant.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- b. R.A.E. Suit No. 260 of 2020 was filed by the Appellant with misrepresentation and suppressing several facts from the Hon'ble Small Cause Court and without their knowledge. The said Suit was filed against the original tenant even after knowing that the said tenant has passed away. The Order dated 15.10.2022 by filing Consent Terms before the Hon'ble Court was obtained by suppressing the material fact about demise of the original tenant. The said Declaration of Surrender dated 14.10.2022 as relied by the Appellant is forged and not signed by the actual tenant of the said Premises. The person who has signed the said Deed i.e. Madanlal Nathulal Jain son of Nathulal Nemichand Jain, is nowhere related to the original tenant. The said Nathulal Nemichand Jain has executed the said Deed fraudulently under the guise of being the legal heir of the original tenant. The name of the original tenant was Nathulal Dharamchand alias Nathumal Dharamraj, whereas the PAN card of the person executing the Declaration of Surrender mentions his father's name as Nathulal Nemichand Jain.
- c. Anyway the said Declaration is not registered and is merely notarised. The said Premises was surrendered only to the Appellant and not to others. Hence, the said surrender is void.
- d. The said Premises being vacant without being occupied by any tenant for the past few years, thus now belongs to all the co-owners as the said Premises is undivided, and each party has equal and undivided right in the said Premises. The Appellant has only one-sixth share in the said Premises.**
- A similar application was filed by the Appellant in respect of Room No. 19 in the same building, seeking transfer of connection in name of Mrs. Shamim Mohammedali Merchant (wife of Appellant). Despite several objections, and relying on documents produced by the Appellant, the Respondent No.1 (BEST Undertaking) transferred the electricity connection from the deceased tenant to Mrs. Shamim Merchant. The said transfer was done by showing a forged rent receipt in favour of Mrs. Shamim Merchant. The objections were raised continuously and finally, the BEST Undertaking


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




cancelled the said transfer. This indicates that the Appellant was already involved in such illegal and fraudulent transfers in past. This is their second attempt to fraudulently seek electricity connection.

- The Appellant along with his wife Mrs. Shamim Merchant are habitual offenders, and are always into creating nuisance and causing trouble to other co-owners and tenants. Copies of complaints submitted by the Tenants Association are on record. Further there are several police complaints/FIRs which have been filed and registered against the Appellant and his wife of trespassing on other's property, harassment, breach of peace, carrying out trade without license etc. The Appellant has been creating nuisance against the tenants and has been threatening and harassing them by filing various rent and eviction cases against the tenants without the consent and knowledge of other co-owners.
- The MHADA Letter dated 29.12.2021 bearing Reference No. 6804/2022 relied upon by the Appellant is tampered.
- The Appellant has himself filed a writ in the high court so this appeal is not maintainable and should be outright dismissed as the matter is sub-judice. The Appellant with malafide intention has illegally occupied the Shop No. 4, affecting the rights of the other co-owners. It is reiterated that Respondents 2 to 5 have a strong objection to granting commercial electricity connection in favour of the Appellant, and shall not issue any NOC in this regard.

6. During the hearing, the entire list of the co-owners of this building was clarified. The same family also owns another building in the vicinity of Plot No.32-40, 2nd Marine Street, Dhobi Talao, Near Gol Masjid, Mumbai 400002. Thus there are two buildings, one comprising of G + 3 and another of G + 4, owned by the following 6 landlords who are family members from the same ancestor:

- 1) Hakimuddin Rassiwala
- 2) Saifuddin Rassiwala


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- 3) Hyder Ali
- 4) Mohammed Ali Rassiwala
- 5) Esmile Rassiwala
- 6) Mariam Rassiwala

The building (Ground + 3 floors) has the said disputed Shop No. 4 on the ground floor, where electricity reconnection is sought by the Appellant through application dated 18.10.2022. On the same day, an objection was raised against the reconnection by the other co-landlords who are the affected parties and have been made parties in the instant Representation as Respondent No. 2 to 5. Ms. Zainab Dhuliwala on behalf of Hakimuddin Rassiwala is the Respondent No. 2. Out of these co-owners, 2 co-owners, i.e., Saiffuddin Rassiwala and Hyder Ali are either not interested or are not aware of this dispute.

Analysis and Ruling

7. Heard the parties and perused the documents on record. We have noted the submissions and contentions of all the parties in the Representation. It appears that there are some buildings owned by the ancestors of the Appellant and Respondent 2 to 5. These include the Rassiwala building 32-44, Plot No. 38, 2nd Marine Street, Dhobi Talao, Mumbai - 400 002. There are tenants in the said building. In respect of the premises in question “shop no. 4” on the ground floor in the aforesaid Rassiwala building, there was a tenant by name Shri Nathumal Dharamraj alias Nathulal Dharamraj Jain. This person is now deceased.

8. The dispute between the parties is in respect of the possession of this “shop no. 4”. The Appellant is claiming that he had filed eviction suit in Small Cause Court against the said Nathulal Dharamraj Jain vide RAE suit no. 260 of 2020. The heirs of said Nathulal Dharamraj Jain are Madanlal Nathulal Jain and Dharamchand Nathulal Jain and they have signed a declaration of surrender of tenancy in favour of the Appellant in respect of the said “shop no. 4”. As per the Appellant, this Surrender Deed is produced in RAE suit no. 260 of 2020 before the Small Cause Court which has passed order dated 15.10.2022 accepting the said Surrender Deed and allowing the Appellant to withdraw eviction suit. The Appellant is therefore claiming,



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



on the basis of this surrender deed, that the premises is in his exclusive possession, and therefore he is entitled to get the electric connection in his name exclusively.

9. The Respondent Nos. 2 to 5 have taken objection to the aforesaid claim of the Appellant and to release the electric connection in his name. They have submitted the following grounds for disagreement:

- The Appellant has relied on Hon'ble Supreme Court Judgment stating that electricity connection should not be refused as the same is a basic necessity. However, this was in **respect of allowing electricity to a needy tenant who was in possession of the premises**. In the present case, the Appellant himself is a co-owner of the Premises, and he has other several sources of income. Further he was never in occupation of the said Premises. **The said Premises was deceptively occupied by the Appellant without any authority or consent of other co-owners.**
- Illegal and unauthorised occupation of Shop No. 4 by the Appellant is as follows:
Mr. Nathulal Dharamraj Jain alias Singhvi was the original tenant of the said premises who passed away. After his demise, for a limited time, a caretaker named Mr. Suresh Mandot was using the premises. Since **2018-19** no one was occupying/using the said premises and it was vacant.
- R.A.E. Suit No. 260 of 2020 was filed by the Appellant with misrepresentation and suppressing several facts from the Hon'ble Small Cause Court. The said Suit was filed against the original tenant even after knowing that the said tenant had passed away. The Order dated 15.10.2022 by filing Consent Terms before the Hon'ble Court was obtained by suppressing the material fact about the demise of the original tenant. The said Declaration of Surrender dated 14.10.2022 as relied by the Appellant is forged and not signed by the actual tenant of the said Premises. **The person who has signed the said Deed i.e. Madanlal Nathulal Jain son of Nathulal Nemichand Jain, is nowhere related to the original tenant.** The said Nathulal Nemichand Jain has executed the said Deed fraudulently under the guise of being the legal heir of the original tenant. The name of the original tenant was Nathulal Dharamchand alias Nathulal Dharamraj, whereas the PAN card of the person executing the Declaration of Surrender mentions his father's name as Nathulal Nemichand Jain.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




- The deceptiveness of the Appellant is evident from his producing false rent receipts.
- The **said Premises, being vacant without being occupied by any tenant for the past few years, thus now belongs to all the co-owners, as it is undivided, and each party has equal and undivided right in the said Premises. The Appellant has only one-sixth share in the said Premises.**
- The Appellant has himself filed a writ in the high court, so this appeal is not maintainable and should be outright dismissed as the matter is sub-judice. The Appellant with malafide intention has illegally occupied the Shop No. 4, affecting the rights of the other co-owners.

10. From all the above submissions, it is clear that separate litigation is already going on with respect to the various claims of ownership and title of the said property which will take their own due course. In the meantime, it will not be proper to grant any benefit to the Appellant, such as electricity connection, which is liable to be misused either for resale of the property or for strengthening the claim of ownership. If the electricity connection is indeed granted in these circumstances where the ownership is under dispute, it cannot be ruled out that the mere fact of being granted electricity connection may be used or misused by one party to strengthen their claim of ownership, which may actually go against the interest of justice.

11. The Appellant, during the course of the hearing, admitted the fact that he has filed a Writ Petition No. 4399 of 2023 before the Hon'ble Bombay High Court against the Forum's order dated 08.02.2023 on 13.02.2023. It is notable here that the Appellant has simultaneously filed this representation before this Authority against the very same order of the Forum, which is not permissible as per Regulation No. 19.22 (g). The said Regulation is reproduced below: -

“19.22 The Electricity Ombudsman shall entertain a representation only if all the following conditions are satisfied:

.....


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



(g) The representation by the Complainant, in respect of the same Grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has not already been passed by any such court, tribunal, arbitrator or authority.”

12. The Appellant has filed this representation with the prescribed Schedule B form (standard form created as per CGRF & EO Regulations 2020). Column 13 in this schedule indicates as below:

“(a) I/ We, the consumer /s herein declare that:

(i) the information furnished herein above is true and correct; and

(ii) We have not concealed or misrepresented any fact stated in hereinabove and the documents submitted herewith.

(b) The subject matter of my / our representation has never been brought before the office of the Electricity ombudsman by me/ or by any one of us or by any of the parties concerned with the subject matter to the best of my/our knowledge.


(c) The subject matter of my / our representation has not been settled through the office of the Electricity ombudsman in any previous proceedings.

***(d) The subject matter of the present representation has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.”
(..... emphasis added)***

13. The Appellant has filed this representation with a misleading, if not outright false declaration that the subject matter of the present representation is not pending before any court/arbitrator. This Representation is liable to be dismissed as the same grievance is pending before the Hon’ble Bombay High Court.

14. The Representation is rejected accordingly.

Sd/-
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

