

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 83 OF 2023

In the matter of reinstatement of name in the electricity bill

Late Baliram Yadav. Appellant
(Through Motilal Baliram Yadav)

V/s.

Adani Electricity Mumbai Ltd. (AEML) Respondent No. 1

Subhash Suryanath Gupta..... Respondent No. 2

Appearances:

Appellant : Motilal Baliram Yadav

Respondent 1 : 1. Mritunjay Jha, Nodal Officer & GM, AEML
2. Shraddha Shah, Manager

Respondent 2 : Subhash Suryanath Gupta


Coram: Vandana Krishna [I.A.S. (Retd.)]

Date of hearing: 16th October 2023

Date of Order: 17th November 2023

ORDER

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



(Dilip Dumbre)
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Order dated 28th June 2023 passed by the Consumer Grievance Redressal Forum, AEML (the Forum). The Forum has dismissed the grievance on the basis that it pertains to a property dispute between the parties which cannot be resolved by the Forum.

2. The Appellant has filed this representation aggrieved by the order of the Forum. A physical hearing was held on 16th October 2023 where all the parties were present. The submissions and arguments of the Appellant are stated in brief as below: -


- (i) The Appellant, late Baliram Yadav was the owner / tenant (status in dispute) in respect of the premises, Room No.2 at Shriram Yadav Chawl, Siddharth Nagar, Vakola Pipeline, Santacruz (East) on Survey No. 362/2 (Pt.), CTS No. 2694 & 2695 of village Kole Kalyan, Taluka: Andheri, Mumbai suburban district, Mumbai. He expired in March 2018 leaving behind his three sons, Hiralal Yadav, Jiyalal Yadav and Motilal Yadav as the only legal heirs. The instant Representation is filed by his son, Motilal Baliram Yadav.
- (ii) The Appellant obtained an electricity connection in his name bearing A/c. No. 101256160 for residential use having address in the bill as
“3, Shriram Yadav Chawl, Vakola Pipeline, Santacruz (E), near Vakola Church, Mumbai 400055.”. However, this connection is being used for Room No. 2.
- (iii) The said premises were sold / transferred on 18.09.2012 by the Appellant, late Baliram Yadav to the Respondent No.2, Subhash Gupta, but the said purchaser did not fulfill the terms of their sale agreement i.e. he has not paid the full agreed amount. (The agreement is on a Rs.100/- stamp paper and notarized, but not registered, as seen from the documents on record.)
- (iv) After the sale agreement for sale, Subhash Suryanath Gupta issued a cheque bearing No. 189670 dated 30.09.2012 for the consideration amount; however almost immediately he stopped the payment of this cheque on 03.10.2012. Hence the bank issued a Memo dated 27.12.2012 to the Appellant stating “payment stopped by drawer”. [Note: During the hearing the Respondent No.2 informed that


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



he deliberately did not pay the full amount due to a dispute or litigation which arose regarding the validity of their sale agreement. The dispute is explained in more detail later. Meanwhile it seems that Respondent No.2 applied for a change of name of the electricity connection in his favour.]

- (v) The Appellant immediately approached the office of Adani Electricity (earlier Reliance Energy) vide letter dated 05.10.2012 and informed it about the non-payment / non-compliance of the sale agreement and recorded his objection for transfer of the electricity connection in favour of Subhash Suryanath Gupta. The office assured the Appellant that they would not transfer the connection in Gupta's name without the NOC of the Appellant and / or Court's order.
- (vi) This decision regarding change of name was on hold from 2012 to 2019. For all these years, the connection continued to be in the name of the Appellant. However, the Appellant was shocked to see the change in the name of Gupta done on 27.02.2020. The Appellant took objection to this vide letter dated 06.03.2020. In response, the Respondent, by letter dated 14.03.2020, gave 15 days' time to the Appellant to approach the Respondent. Unfortunately, the nation faced a complete lockdown due to the Covid-19 pandemic from 24.03.2020, hence the Appellant was not able to visit the Respondent's office.
- (vii) After the lifting of the lockdown in October 2020, the Appellant visited the Respondent's office and submitted his complaint by letter dated 19.10.2020. The Respondent reverted by its letter dated 23.10.2020 that the change of name was done in accordance with the rules.
- (viii) Being aggrieved by this, the Appellant filed a grievance on 26.06.2022 with the Forum demanding that the transfer of name done in favour of the Respondent No. 2 be declared as illegal and bad in law. The Forum, by its order dated 28.06.2023 dismissed this grievance application.
- (ix) Hence, the Appellant has filed this representation with a prayer to revert the connection in the name of late Baliram Yadav in place of Subhash Gupta.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



3. The Respondent No.1 AEML submitted its reply by email dated 06.09.2023. Its submissions and arguments are stated as below:

- (i) The present Representation is filed by the Appellant seeking relief to restore the connection in the name of Baliram Yadav in place of Subhash Gupta.
- (ii) Firstly, the present appeal /complaint is barred by limitation, since the cause of action has crossed the limitation period of two years. **Although the change of name for Consumer Account No. 101256160 was done on 27.02.2020, the Appellant filed his complaint before the Forum on 21.03.2023, exceeding the limitation period.** Regulation 7.8 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 is stated as under:


*7.8 The Forum **shall** not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.*

The regulation mandates any complaint to be made within a period of 2 (two) years. Thus, the present complaint should be disposed of solely on this ground.

- (iii) The said residential premises was installed with CA No. 101256160 in the name of Baliram M. Yadav. On 27.02.2020, the Respondent 2, Subhash Gupta submitted an application with the relevant documents relating to his ownership/ occupancy of the said premises, requesting for the change of name of the said connection from 'Baliram Yadav' to 'Subhash Suryanath Gupta'. Respondent No.1 processed and approved the application based on the documents submitted by Respondent No. 2.

It is pertinent to note that the provision for Change of Name is stipulated under Regulation 12 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standard of Performance of Distribution Licensees including Power Quality) Regulation, 2021. The Regulation 12 is provided as under: -

12.1 A connection may be transferred in the name of another person upon death of the Consumer or, in case of transfer of ownership or occupancy


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



of the premises, upon application for change of name by the new owner or occupier:

12.2 The application for change of name shall only be submitted online for Urban Area accompanied by such charges as are required under the approved Schedule of Charges of the Distribution Licensee:

Provided that application for change of name in Rural Area may be submitted online or in hard copy form.

12.3 The application under Regulation 12.2 shall be accompanied by:


a) consent letter of the transferor for transfer of connection in the name of transferee;

b) in the absence of a consent letter, any one of the following documents in respect of the premises: (i) proof of ownership of premises/occupancy of premises; (ii) in case of partition, the partition deed; (iii) registered deed; or (iv) succession certificate;

c) photocopy of license / permission with respect to the purpose for which electricity is being supplied to the premises, if required by statute.

(Emphasis added)

- (iv) Accordingly, the request for change in the name of Respondent No. 2 was processed and granted on 27.02.2020. On 06.03.2020, the Respondent No. 1 received a legal notice from Motilal B. Yadav through his advocate, demanding the reinstatement of the said connection in the name of Baliram Yadav. As a result, Respondent No.1 issued a "Call on us" letter to Respondent No.2 dated 14.03.2020.
- (v) Vide his earlier letter dated 20.08.2014, Respondent No.2, Subhash Gupta had submitted that the said premises had been purchased by him from the Appellant. A concerned court matter was also quoted, being Case No. 2210/2010 between one Shriram Deoraj Yadav, who claimed to be the landlord of the Shriram Yadav Chawl, against Baliram M. Yadav and Subhash Surajnath Gupta. [Note: It seems that Shriram Deoraj Yadav had raised an objection to the sale by his tenant


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




Baliram Yadav to Subhash Gupta, and had gone to court, making both Baliram Yadav and Subhash Gupta parties. This led to litigation costs incurred by Subhash Gupta, which he quotes as the reason why he did not make the full sale payment to the Appellant.]

- (vi) On 19.10.2020, the Respondent No.1 received a reminder letter by the Appellant to reinstate CA No. 101256160 in the name of Baliram Yadav. A reply was sent on 23.10.2020, wherein it was clarified that the Change of Name was done based on valid documents submitted by Respondent No. 2. **During the site visit by authorized personnel of Respondent No. 1, it was also found that Respondent No. 2 was in actual physical possession of the said premises.**
- (vii) Respondent No.1 received notices dated 26.10.2020, and 10.01.2023 from the Appellant, and a reply was given dated 14.01.2023 whereby it was again clarified that *“the existing electric connection had been transferred in the name of Subhash Suryanath Gupta on the strength of the documents produced by him in respect of the premises and that **the name of the electricity bill does not confer any title to the property** or premises and if there is any dispute relating to the property, the same shall be settled taking appropriate steps.”*
- (viii) Respondent No.1 being a service provider abides by the rules and regulations enacted by the concerned authorities. As per Regulation 12, the Change of Name on the electricity bill was carried out based on the sale documents submitted by Respondent No. 2. The name on the electricity bill does not in any manner prejudice the rights and title of the parties.
- (ix) In view of the above-mentioned facts and circumstances, the present complaint deserves to be rejected.

4. The Respondent No. 2, Subhash Suryanath Gupta, the purchaser of the property, submitted his arguments as follows: -

- (i) The sale of the above-mentioned premises was done through a notarized agreement on Rs.100/- stamp paper dated 18.09.2012 between Mr. Baliram


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




Manoj Yadav and Mr. Subhash Suryanath Gupta and Mr. Dinesh Suryanath Gupta. The parties agreed for a total consideration of Rs.15,00,000/-. Rs.12,00,000/- was paid at the time of the agreement. During the hearing, the Respondent No.2 stated that he was not willing to pay the balance amount, as the Appellant had caused other monetary loss to him. [Note: A detailed study of the case reveals the background circumstances as mentioned in para 3 (v). Briefly, a third party, one Shriram Yadav, who claimed to be the original landlord of the premises, went to court raising an objection to the sale by his tenant Baliram Yadav to Subhash Gupta. The court finally dismissed Shriram Yadav's claim.]

- (ii) On the other hand, the Appellant stated that the Respondent No. 2 had not fulfilled his obligation to pay the entire amount of Rs.15,00,000/- as per the agreement.
- (iii) Respondent No. 2 is in possession of the said room. On the basis of the sale documents and the fact that he is in possession, the change of name was carried out by Respondent No. 1.
- (iv) It is therefore prayed to dismiss the said Representation.

Analysis and Ruling

5. Heard the parties and perused the documents. The Appellant, Motilal Baliram Yadav is one of the sons of late Baliram Yadav, the then consumer of the Respondent. He has filed this case against AEML and the present consumer, Subhash Suryanath Gupta for reinstatement of the name of his father on the electricity bill.

6. The late Baliram Yadav had sold the disputed premises to Subhash Suryanath Yadav under a notarized agreement dated 18.09.2012 for a consideration amount of Rs.15,00,000/-. However, due to non-payment of this full amount, late Baliram Yadav had managed to stop the change of name on the electricity bill till 2019 by requesting the distribution licensee not to do so. Later in the year 2020, the distribution licensee changed the name to the present consumer, Subhash Suryanath Yadav on the basis of the produced sale documents, and also


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




based on the site inspection verifying that he is in actual physical possession of the premises. Respondent No.1 has acted as per the rules and regulations framed under the Electricity Act, 2003. Therefore, I do not find any inconsistency in the action of the Respondent No. 1. The background civil dispute has already been explained in para 4(i). However, this does not change the fact that the Appellant and Respondent No. 2 had voluntarily entered into a sale agreement, even though at that time, the Appellant must have been aware, as the tenant, of the possibility and risk of the original landlord raising an objection.

7. The following Civil Court orders are on record: -

- (i) Order dated 29.11.2014 in S.C. Suit No. 2210 of 2012 of the City Civil Court at Dindoshi (Borivali Division), Goregaon, Mumbai in the matter of Satiram Virog Yadav V/s. Motiram Yadav & Ors. And Subhash Gupta.
- (ii) Order dated 07.03.2019 in R.A.E. Suit No. 178 of 2014 of the Court of Small Causes at Mumbai (Bandra Branch) in the matter of Shri Shriram Deora Yadav (Plaintiff) V/s. 1. Shri Baliram M. Yadav & 2. Shri Subhash Surayath Gupta (Defendents).

The following facts emerge from these orders.

Background of the current dispute, it seems that one Shriram Deora Yadav / Satiram Virog Yadav claimed to be the original owner of the said premises, which is in the chawl named as Shriram Yadav Chawl. It seems that he had rented out these premises to some tenants who sold this room to another party. Probably the room was sold and resold a few times, and the Appellant, late Baliram Yadav purchased this premise and resold it to Subhash Gupta. This was challenged by the original owner, Satiram Virog Yadav in the Bombay City Civil Court as he claimed that the tenant has no right to resell the property. Subhash Gupta also was made a party in the Civil Suit. In short, Respondent No. 2, Subhash Gupta claims that he was forcibly dragged into this litigation, and had to incur costs of litigation for no fault


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



of his own. At this stage, it is beyond the scope of this forum to determine whether the Appellant, late Baliram Yadav had the right to resell the property to the Respondent No. 2, Subhash Gupta, as this is a matter of civil litigation. It is also possible that Subhash Gupta was aware of the disputed status of the property, but chose to take a risk and buy this property, as was done by earlier tenants / owners in a series. Because of the complicated nature of the civil dispute, we leave aside this issue for the time being, and examine other aspects of the case. There is no doubt that Respondent No. 2 has been in undisputed physical possession of the premises since 2012, which amounts to settled occupancy.

8. The Forum has studied the case thoroughly and has given a reasoned and speaking order, despite the case being filed beyond two years from the date of cause of action as per Regulation 7.8 of the CGRF Regulations 2020. **Although the change of name for Consumer Account No. 101256160 was done on 27.02.2020, the Appellant filed his complaint on 21.03.2023, exceeding the limitation period.** Regulation 7.8 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 is stated as under:


“7.8 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

9. Respondent No. 1 has followed the procedure of Regulation 10 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (Supply Code Regulations 2005) which was in force. The said Regulation 10 is quoted as below:

“10.1 A connection may be transferred in the name of another person upon death of the consumer or, in case of transfer of ownership or occupancy of the premises, upon application for change of name by the new owner or occupier:

10.3 The application under Regulation 10.2 shall be accompanied by:

- (i) consent letter of the transferor for transfer of connection in the name of transferee;*
- (ii) in the absence of a consent letter, any one of the following documents in respect*


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




*of the premises: (a) proof of ownership of premises;
....."*

10. Despite the grievance being beyond the scope of the Forum, it had already given an opportunity to the parties (Appellant and Respondent No. 2) for an amicable settlement, but no settlement could be arrived at. Hence, the Forum dismissed the case.

11. The present matter is purely a civil dispute which is to be decided by the appropriate authority. Respondent No. 2 admittedly has been in settled occupancy of the premises since 2012.

12. In view of the above, the Forum's order is upheld. The Representation stands rejected.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


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