

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 43 OF 2024

In the matter of release of new electricity connection for property protection

Swami Krupa Developers.....Appellant

V/s.

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

Divakar Gondane .....Respondent No.2

Appearances:-

Appellant : 1. Khemchand Rajbhor, Representative  
2. Karan Chawla

Respondent No. 1 : 1. Satyajeet Varadkar, AVP  
2. Mritunjay Kumar Jha, Nodal Officer

Respondent No. 2 : None


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

Date of hearing: 7<sup>th</sup> March 2024

Date of Order : 28<sup>th</sup> March 2024

### ORDER

This Representation was filed on 10<sup>th</sup> January 2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 30<sup>th</sup> November 2023 in Case No. 10016 of 2023-24 passed by the Consumer Grievance Redressal

  
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Forum, AEML (the Forum). The Forum by its order disposed of the grievance, rejecting the prayer for grant of a new electricity connection in the light of multiple litigations in respect of the said premises which are pending in the Hon'ble High Court Mumbai. The operative part of the order is as below:


*“2. The Respondent shall refund the charges collected from the Applicant / Complainant within 2 weeks from the receipt of the bank details & other formalities.*

*3. Respondent to report compliance to this Forum within 2 months from the refund of such amount.*

*4. Applicant / Complainant to approach the Respondent for getting new electricity connection after resolving / removal of objection at site and upon fulfilment of formalities required under law / regulations.”*

2. The Appellant has filed this representation against the order of the Forum dated 30<sup>th</sup> November 2023. A physical hearing was held on 7<sup>th</sup> March 2024. The Appellant and Respondent No. 1 were present, and the Appellant's representative attended the hearing through video conferencing. No one was present on behalf of Respondent No. 2. The parties were heard at length. The Appellant's written submissions and arguments are stated as below:

- (i) The Appellant, Swami Krupa Developers, is a partnership firm situated at 701, 702, Aruna Samruti C.H.S., Near Krishna Nagar Post office, Dahisar – East, Mumbai – 400 068. It submitted an Application (No. 350116716) on 10.08.2023 for grant of a new electricity connection for property protection at CTS No. 2863, Survey No. 113, Hissa No. 8, situated at Ghartanpada No-2, village Dahisar Garden Road No. 2, Sant Mirabai Road, Dahisar- East, Mumbai under temporary category. The property is owned by the Appellant for more than 12 years. It had purchased the afore-mentioned land from Pascol Martin Mendes in 2007 by executing a Registered Conveyance Deed. The land record of the 7\*12 extract of the afore-mentioned land showing his name is kept on record.

  
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- (ii) The Appellant already had an electric connection (Account No: 150888770 and Meter No 8650174) of AEML in the said plot under LT II (a) commercial tariff category for the purpose of lighting for its security team. But due to non-payment of bills on time, the said connection was permanently disconnected on 26.10.2017 by Respondent No.1.
- (iii) One Shri Diwakar Laxman Gondane, who worked as one of the site supervisors engaged by the Appellant long ago, made fake documents showing his claim in the subject land. He claims that he is the developer for “Dahisar Navjeevan CHS” on that land and on the basis of those documents, filed a Civil Suit in the Hon’ble City Civil Court in Dindoshi, Mumbai. The Hon’ble City Civil Court passed a decree / order (ex-parte) for possession in Suit No. 2170 of 2012 on 30<sup>th</sup> September 2022 in the absence of the Appellant. The concerned paragraph with respect to Defendant No. 8 (which is the Appellant in the instant case) is as follows:-

*“Defendant No. 2 and 8 are hereby restrained to create any third party right and/or alienate, encumber or dispose the plaintiff’s possession over the suit land i.e. piece and parcel of land admeasuring 2154.08 Sq. meters bearings CTS No. 2863 survey No. 113, Hissa No. 8, situated at village Dahisar Garden Road No. 2, Sant Mirabai Road, Dahisar- East, Mumbai 400 068 and/or any part or portion thereof without following due process of law.”*

It is observed that **the Court has only prevented the “removal” of Diwakar Gondane from the subject land, until the other parties in the Suit No. 2170 of 2012 do so by following the due process of law**, whereas Diwakar Laxman Gondane never had physical possession in the past or in the present.

The Hon’ble City Civil Court did not deny the title, rights and interests of the Appellant. They have not said that the Appellant cannot use the area which they are occupying. **An appeal to the Hon’ble Bombay High Court, which was registered**

  
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as Appeal from Order No 22972 (ST) of 2023 with Interim Application No. 22973 (ST) of 2023, is in progress.

- (iv) The Hon'ble Court under paragraph no.49 observed that Plaintiff is in possession of the land by virtue of development rights, and he is entitled to protect the same. Paragraph no. 49 is reproduced here for ready reference. (Note: Plaintiff: Shri Diwakar Laxman Gondane) :


*“49. As discussed hereinabove, **plaintiff is in possession over suit land by virtue of development right, he is entitled to protect the same.** A question is whether said possession handed over was in contravention of order of the Hon'ble High Court in Writ petition and hence, possession is to be taken out, defendant No.1 has to follow due process of law. However, at the same time, defendant No.1 cannot be restrained to alienate or create third party right in the suit land as only under supervision of Dy. Registrar of Cooperative Societies, said development right can be exercised by passing resolution.” (Emphasis Supplied)*

- (v) The Hon'ble City Civil Court in Suit No. 2170 of 2012 has clearly clarified in para 49 of its order that plaintiff is in possession of suit land by virtue of Development Right. [**There is no law in existence yet by Central Government or State Government that a person will become owner or get title by virtue of a Development Agreement.**]
- (vi) The Hon'ble City Civil Court only prevented the “removal” of Diwakar Gondane from the subject land until the other parties in Suit No. 2170 of 2012 do so by following the due process of law. **In order to follow “the due process of law”, there are multiple cases pending in various courts with respect to the subject land.**

  
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- (vii) The Appellant applied for a new connection on 10<sup>th</sup> August 2023. As per demand notice of new connection dated 24<sup>th</sup> August 2023, the Appellant made payment on 25<sup>th</sup> August 2023. The service work was executed in the meter cabin around 22.09.2023. Respondent No. 1 submitted that an objection letter was received from Diwakar Gondane on 26<sup>th</sup> September 2023, and on the same day the job was completed for fixing meter box and cable line connection. There was purposely one month's delay from Respondent No.1, as if they waited for an objection from Diwakar Gondane, which shows that someone from Respondent No. 1 is doing a conspiracy with the help of Diwakar Gondane. There is no valid reason for one month's delay. Payment for the estimate job was made on **25<sup>th</sup> August 2023** and objection from Diwakar Gondane was received on **26<sup>th</sup> September 2023**, which shows that Respondent No. 1 is not coming with clean hands and intentionally wants to delay the supply process.
- (viii) The Appellant still has possession of the said land from day one, and are requesting the Respondent No.1 to give a new connection for security.
- (ix) The Appellant filed a grievance application in the Forum on 10.11.2023 requesting to provide a new electricity connection for the protection of the said property. The Forum by its order dated 30.11.2023 rejected the prayer of the Appellant. **It failed to understand that the Appellant is the owner, and in possession of this property.** The order passed by the Forum needs to be quashed, as it is not based on actual facts and circumstances.
- (x) The Appellant referred to the judgment of the Hon. Bombay High Court dated 04.09.2023 under Writ Petition No. 1763 of 2022 wherein Hon. Bombay High Court held that ***“granting of a license for the purpose of development of the flats and selling the same could not be said to be granting possession”***.

  
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- (xi) Diwakar Gondane vide his letter dated 6<sup>th</sup> October 2023 claims that the said plot is under his ownership, possession and title. How come Respondent No.1 accepted and confirmed the same and on what basis?
- (xii) Physical inspection was done by Respondent No.1 before issuing the job estimate for power supply on the said plot, and there was no difficulty for them to install a meter, and no one came to oppose Respondent No.1 team, neither today anybody is having any difficulties on the same plot.
- (xiii) Respondent No.1 sent a letter in reply to the Appellant on the same address of the said plot by Indian Post, which was duly received and acknowledged by the Appellant's deployed security team on the said plot. This shows that there is no dispute regarding the physical possession of the said plot.

There are several letters of correspondence between the Appellant and BMC at the same address of the said plot, which confirms the above claim.

- (xiv) As per the BMC approval letter for installation of a monsoon shed on the same plot, the said permission was issued by BMC after due inspection, which again shows that the Appellant has peaceful possession of the said plot.

While doing inspection of this plot by BMC and Adani from time to time, no one came forward to claim his possession, which clearly shows that the Appellant has peaceful possession.


- (xv) The Appellant referred to the Judgment of Hon. High Court of Himachal Pradesh, dated 22/10/2018 in Case of Madanlal V/s. State of Himachal Pradesh and Others CWP No.2454 of 2018. In this case **the petitioner was entitled to get electricity and water connection as an interim measure.** The Hon'ble High Court observed that **water and electricity are the basic necessities of human beings and can well be termed as essentials of Human Rights.** The Hon'ble High Court observed that

  
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in a title dispute, owing to the fact that appeals under the statute remain pending for a considerably long period, we see no reason to deny the basic amenities of water and electricity subject to their payment of requisite charges.

- (xvi) Diwakar Laxman Gondane (Prashant Developers) sent a letter through his Advocate KLIC Law Advocates & Legal Consultants, objecting to the Appellant's application for a new connection. This letter is frivolous and misleading. Mere filing a false and frivolous case cannot hold up the process of supplying electricity to the Applicant/Appellant, as his team is suffering from mosquito problems and may get infected with malaria and dengue, and Adani Team will be responsible for the same. Therefore, the objection is liable to be rejected.
- (xvii) Hon. Bombay High Court's observation in favour of Appellant dated 22.01.2008 under Appeal from Order No. 60 of 2008 wherein Hon. Bombay High Court observed that "Dahisar Navjeevan Co-operative Housing Society claims that original owners of the suit land had entered into an agreement for sale of the suit property to the society in the year 1982. On that basis, the society had filed Suit No.2233 of 1990 before the High Court for specific performance of the contract. That suit came to be dismissed on 29.06.2006".  
**"Thus, prima-facie it appears that the society itself does not have any right, title or interest in the suit property at present nor it had any when the plaintiff filed the suit before the City Civil Court".**
- (xviii) The Hon'ble City Civil Court in Suit No. 2170 of 2012 has observed in para no. 49 that DEVELOPMENT AGREEMENT CAN BE EXERCISED BY PASSING RESOLUTION. Dahisar Navjeevan Society itself has submitted before the Hon'ble Bombay High Court in an Appeal that; they have not executed any Development

  
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Agreement in favour of Respondent No.2. It is all forged & bogus, and they have initiated a police complaint regarding the same and is under progress.

- (xix) The Appellant referred to the Hon'ble Electricity Ombudsman's Order dated 27.04.2021 in Representation No. 1 of 2021. The order has quoted the paras of the respective Forum as below:

*“On behalf of the Complainant, reliance is placed on the judgment of Himachal Pradesh High Court, Madanlal V/s. State of Himachal Pradesh and Others CWP No.2454 of 2018 (Date of Decision 22/10/2018). In this case, the petitioner constructed the residential house on Government land. Ejectment proceedings were initiated. The petitioner had also applied for an electricity and water connection which was rejected. It appears that the title dispute was remanded to the Assistant Collector, Nahan. Before the Hon'ble High Court of Himachal Pradesh, the question arised whether the petitioner was entitled for getting electricity and water connection as an interim measure. The Hon'ble High Court observed that water and electricity are the basic necessities of human beings and can well be termed as essentials of Human Rights. The Hon'ble High Court observed that in the title dispute, owing to the prescription to the right to appeal under the statute remains pending for considerable long period, we see no reason to deny the petitioner's family the basic amenities of water and electricity subject to their payment of requisite charges. It goes without saying that in the event of petitioner having failed to prove his rights to retain the possession, both facilities will also go along with the residential house. So, relying on above authority, it is submitted on behalf of the Complainant that the Complainant is a lawful purchaser of the flour mill and the business, goodwill and he is in possession of the premises beneath the flour mill. Till today, no suit is filed by the Respondent Nos 2 & 3 about the alleged trespassing and also about the tenancy issue as alleged by them. In view of Section 43 of Electricity Act 2003, the owner or occupier of any premises is entitled to get supply of electricity to such premises. The word 'Occupier' is defined in Maharashtra Electricity Regulatory*

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*Commission (Electricity Supply Code and Other Conditions of Supply) Regulations 2005 as it means the person in occupation of the premises where energy is used or processed to be used.”*


- (xx) The Appellant is willing to submit an undertaking that in future if any competent authority or forum passes an order, he will obey the same.
- (xxi) The facts of the case are :-
- a) The full plot/premises/land is owned, possessed, and occupied by the Applicant/Appellant from the date of Deed of Conveyance till date.
  - b) Dahisar Navjeevan Society, from whom Diwakar Gondane claims to have got so called Development Agreement, but he can't exercise the same in the absence of a Resolution.
  - c) The Applicant/Appellant had an electricity meter which was used by the Appellant & his security team for the purpose of lights and fans. But now they are without power supply.
  - d) Applicant/Appellant had submitted an application long ago, and after site inspection by Adani team, the estimate was issued by Adani Electricity Mumbai Ltd. There was no obstruction done by anyone on the said plot, as the Appellant's security team is there 24\*7.
  - e) There was more than 1 month's delay from Adani Electricity Mumbai Ltd.'s side with no valid reason.
- (xxii) In these circumstances, it is prayed to issue directions to the Respondent No.1 to consider the Appellant's application and process the installation of electricity meter.

3. The Respondent No. 1, AEMML has filed its reply vide email dated 28.02.2024. Its submissions and arguments are stated as follows:

  
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- (i) There was an electricity connection vide CA No. 150288610 installed on 26.07.2006 in the name of Chandrabhan Sadan Singh at CTS No. 2863, Survey No. 113, Hissa No. 8, Ghartanpada No-2, Sant Mirabai Road, Dahisar- East, Mumbai.
- (ii) The Appellant- Swami Krupa Developers applied for change of name of the above account from Chandrabhan Sadan Singh to the Appellant-Swami Krupa Developers. The application for change of name was processed based on the documents submitted by the Appellant. The electricity bill was made in the name of Appellant vide a new CA No. 150888770. However, this electricity connection got disconnected and the meter was removed on 26.10.2017 due to non-payment of outstanding dues.
- (iii) After that, Respondent No. 2 i.e. Diwakar Laxman Gondane, Proprietor of M/s. Prashant Developers & Civil Construction, applied for a new electricity connection under commercial category for the same premises. Relying upon the application and documents submitted by the applicant, a new electricity connection vide CA No. 153377810 was granted on 07.12.2022. However, the meter connected to the said electricity connection got removed on 07.08.2023, as the structure on which the electric meter was installed was also removed/ demolished.
- (iv) Thereafter on 10.08.2023, an application for a new connection for property protection was made by the Appellant. Based upon this application and the documents submitted by the Appellant, an estimate dated 24.08.2023 was raised by Respondent No.1 and sent to the Appellant. The Respondent No.1 received the payment of the estimate amount on 25.08.2023. On the basis of this payment, the Respondent No.1 proceeded with the application. However, the service job could not be executed as the Meter Cabin at the premises was not ready. Thereafter on 22.09.2023 the meter cabin was ready, so the service job was executed. However, the meter could not be installed due to objection from M/s. Prashant Developers.
- (v) The Respondent No.1 received a letter dated 26.09.2023 from the Respondent No.2, Diwakar Laxman Gondane, objecting to the installation of a meter box and supply of electricity to the premises, as he claimed to have possession / ownership. A copy

  
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of the objection letter dated 26.09.2023 is kept on record. Upon receiving the objection letter of Respondent No. 2, the Respondent No.1 sent him a reply dated 27.09.2023 and another reminder dated 03.10.2023, as Diwakar Gondane was following up the case.

- (vi) On 06.10.2023, Respondent No.1 received another letter from Respondent No.2 stating that the Premises is under his ownership and possession, and that there was no construction after the structure on the Premises was demolished (due to which the electricity meter bearing CA No. 153377810 was removed). Thereafter, the Respondent No. 1 received another letter dated 07.10.2023 from KLIC Law Advocates & Legal Consultants under the instructions of Prashant Developers & Civil Construction, requesting the Respondent to disconnect the supply and connection of the Premises in consonance with the judgement dated 30.09.2022 passed by the Hon'ble City Civil Court at Bombay (Suit No. 2170 of 2012). Respondent No. 1 has again received a letter from Respondent No. 2 stating that he is in possession of and has the rights to the Premises, relying on the above judgement.
- (vii) Based on rival submissions of documents and submissions by the Appellant and the Respondent No. 2, it is seen that Diwakar Laxman Gondane instituted a suit before the Hon'ble City Civil Court at Bombay (S.C. Suit No. 2170 of 2012), wherein the Plaintiff prayed for perpetual injunction against the defendants (Dahisar Navjeevan CHS & Ors. (the Complainant herein was Defendant No. 8 in that suit) to restrain them from interfering with, obstructing, disturbing in any manner the peaceful use and possession of the Premises, and to restrain the defendants from creating any third party right against the Premises.
- (viii) The Hon'ble Court under paragraph no.49 observed that the Plaintiff is in possession of the land by virtue of the development rights, and he is entitled to protect the same. This observation is reproduced in Para 2 (iv). It clarifies that Diwakar Laxman Gondane (plaintiff) is in possession of the suit land, which is described under paragraph No. 1 of the Judgement as: a land admeasuring 2154.08 sq meters bearing


  
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CTS No. 2863 Survey No. 113, Hissa No. 8, situated at Village Dahisar, Ghartanpada Road No.2 Sant Mirabai Road, Dahisar (E) Mumbai-64.

Further, the Hon'ble Court passed the final order; the relevant portion of the order i.e., point no. 3 is also reproduced in Para 2 (iii).


- (ix) Subsequently, an appeal has been filed by Dahisar Navjeevan Co-operative Housing Society Ltd. against the developers before the Hon'ble High Court of Bombay, challenging the above judgement passed by the Hon'ble City Civil Court dated 30.09.2022 in Suit No. 2170 of 2012. However, Respondent No.1 has not seen any stay order passed by Hon'ble High Court.
- (x) As seen from the judgment dated 30.09.2022 passed by the Hon'ble Court in Suit No.2170 of 2012 that Diwakar Laxman Gondane is in possession of the suit premises. The Appellant is seeking supply for the same suit premises for which Respondent No.2 is taking objection; hence the supply in the name of the complainant has not been granted. **That Respondent No.1 is of the opinion that there is a dispute w.r.t. the Premises between the Appellant and Respondent No.2. An appeal filed by one of the defendants is pending before the Hon'ble High Court. Since the dispute is of a civil nature, it can only be decided by the Court. The Respondent No.1 is not the competent authority to adjudicate in matters of property dispute, and it shall act on the directions of the Hon'ble Court.**
- (xi) The Appellant filed a grievance application in the Forum on 10.11.2023 requesting to provide a new electricity connection for the protection of the said property. The Forum by its order dated 30.11.2023 rejected the prayer of the Appellant. It passed a detailed reasoned order after due consideration of the entire facts, and material on record. The order passed by the Forum is just, and it warrants to be upheld by this Hon'ble Authority. Under the circumstances, the relief and prayer sought by the Appellant deserves to be rejected.
- (xii) Respondent No.1 is willing to provide electricity connection to the Appellant, provided the Appellant removes the objection raised by Respondent No.2.

  
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4. The Respondent No. 2, Divakar Laxman Gondane (Prashant Developers & Construction) filed its reply on 16.02.2024. His submissions are stated as below:


- (i) The Respondent No.2 is the Proprietor of Prashant Developers and Civil Construction, with address at Gondane Niwas, Shankarwadi, Ghartanpada No. 2, Near Tambe High School, Dahisar (West), Mumbai.
- (ii) He has been in use, occupation, possession and enjoyment of all land admeasuring 2154 .08 sq. meters bearing CTS No. 2863, Survey No. 113, Hissa No. 8, situated at Village Dahisar, Ghartanpada Road No. 2, St. Mirabai Road, Dahisar (East), Mumbai 400068. This possession has been in pursuance to a Development Agreement dated 8.2.2008 between him and Dahisar Navjeevan Cooperative Housing Society Ltd., under which the development rights in respect of the said property were granted to the Respondent No.2 on the terms, conditions and for consideration as stated in the development agreement. The Respondent No.2 has constructed an office, security cabin and storeroom for carrying out development of the said property and other steps for redevelopment of the said property. Further, there is a Judgement and decree dated 30<sup>th</sup> September 2022 passed by the Bombay City Civil Court at Dindoshi in S.C. Suit No. 2170 of 2012 in his favour whereby his possession pertaining to the said property is protected.
- (iii) The present appeal filed by the Appellant is nothing but an abuse of the process of law, in as much as the Appellant does not have any right, title and interest in the property in question, and more over the document viz. alleged deed of conveyance dated 18.4.2007, is a forged and fabricated document.
- (iv) In the present appeal the Appellant has relied upon certain documents. However, no such documents are available in the records of rights, nor these documents are annexed to the alleged deed of conveyance dated 18.4.2007, and the same is coming up for the first time in the present appeal. This is a forged document. Further, in respect of Survey No.113, Hissa No. 8, one Mutation Entry relied upon by the Appellant i.e., Mutation Entry No. 1955 dated 24.12.59 showing by heirship David Anthon Mendes, Christinabai Anthon Mendes being mother and brother of Francis. Thereafter, by alleged Mutation Entry No.

  
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6519 dated 6.12.1978, the names of Pascon David Mendes, Francis Mendes, Ignesis Mendis, Clera D'cras, Cairolin David Mandes, Smt. Pristia are recorded as heirs of Anthon Bastav Mendes and David Anthon Mendes who died on 14.04.1978, and 30.05.1970, respectively. Vide alleged Mutation Entry No. 1955, names of David Anthon Mendes and Christina Anthon Mendes was recorded. Thereafter, by alleged Mutation Entry No. 6519 dated 6.12.1978, the names of the Vendors of Deed of Conveyance dated 18.04.2007 have been recorded as heirs of Anthon Bastav Mande and David Anthon Mendes, whereas the said David Anthon Mendes was never married, and he died a bachelor. Further in the alleged Mutation Entry No. 1955, there is no name of Anthon Bastav Mendes but there is the name of Christina Anthon Mendes. A serious enquiry is required to be conducted into the matter.


- (v) The said alleged Deed of Conveyance dated 18.4.2007 would further reveal that the vendors therein did not describe as to how they acquired the said property and how they came into possession, and there is no annexure to the said deed of conveyance, describing the flow of right, title and interest of the said property from their predecessors. There is no chain of documents showing in what manner the said property came into the possession of the vendors. What is annexed to the Deed of Conveyance is a 7/12 Extract and a Rule card. In the 7/12 Extract one Pascol Martin David Mendes is shown as 'Kabjedar' and not as holder (Dharak) or owner of the said property. Further, in the Rule Card annexed to the said Deed of Conveyance dated 18.4.2007, there is no name mentioned of any person, nor even the name of Vendors of said Deed of Conveyance dated 18.4.2007. Thus, based upon these documents an attempt to transfer and convey the said property to the Appellant is made, which is impermissible in law. Moreover, no property can be conveyed by way of transfer as provided under the Transfer of Property Act, without there being a title to transfer the same by conveyance. In the present case, the vendor to the agreement has not mentioned from whom the vendor has acquired the said land, or how the vendor became owner of the said land, and what title documents the vendor has in respect of the said property, chain of agreements showing how the ownership transferred from hand to hand etc. As such the said property could not have

  
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been transferred by the said vendor to the Appellant herein. The said Deed of Conveyance dated 18.4.2007 does not show that the vendors of the said deed were in actual possession of the said property so as to transfer the said property. Admittedly the possession of the said property was with Dahisar Navjeevan Co-operative Housing Society Ltd. who later on transferred the said property to this Respondent No.2.


- (vi) Moreover, there is even a suit filed by the Vendor of the said alleged Deed of Conveyance dated 18.4.2007, against the Appellant herein in High Court, Bombay on the ground of non-payment of consideration and other grounds. The Respondent No.2 crave leave to refer to and rely upon the papers and proceedings of the said High Court Suit as and when produced. Thus, the Appellant does not have any right, title and interest in the said property, nor are they in possession, and they were never in possession of the same for the simple reason that the City Civil Court vide its order dated 30.9.2022, in S.C. Suit No.2170 of 2012, has clearly held that it is the Respondent No.2 who is in actual possession of the said land, and as such the Respondent No.2 is entitled to get his name recorded in the 7/12 extract as Kabjeddar and occupant of the said property. That is what is rightly done by the Talathi and office of the Tahsildar by recording the name of the Respondent No.2 in 7/12 Extract.
- (vii) Before recording the name of the Respondent No.2 in 7/12 Extract, he issued a notice to the Appellant herein. In spite of the notice, the Appellant failed to appear before the Revenue Authorities, nor took any objection against recording the name of the Respondent No.2 in the 7/12 Extract. The Appellant was well aware that, the Respondent No.2 has made an application for recording his name in 7/12 Extract, and a Panchnama was carried out by the Revenue Authorities. Based upon the said Panchnama and facts, including the City Civil Judgment, the Revenue Authority recorded the name of the Respondent No.2 in the 7/12 Extract by following the due process of law. Against the City Civil Judgment, the Dahisar Navjeevan Co-operative Housing Society Ltd. has filed First Appeal No. 1335 of 2022, and the said appeal is admitted by the Hon'ble High Court, but no relief has been granted to the society. In the said First Appeal, the Respondent No.2 is Respondent No. 8, and the Appellant has not made any application for any relief.

  
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Further, the Appellant has filed a separate application in the City Civil Court Mumbai vide Notice of Motion No. 3910 of 2022, to set aside the said City Civil Judgment. But the Hon'ble City Civil Court dismissed the said Notice of Motion by Order dated 10.8.2023 and no relief is granted to the Appellant.

- (viii) Apart from this, the Appellant had filed a S C Suit No. 203 of 2007 against one Ravindra Pilankar before the Hon'ble City Civil Court at Bombay, Borivali Division at Dindoshi, thereby pleading that, the Appellant's possession pertaining to the suit property not be disturbed. The said S C Suit No. 203 of 2007 was dismissed by the Hon'ble Court vide its Judgement dated 22.02.2012. The Appellant has suppressed this vital and material fact from this Hon'ble Court, and thus, has not approached this Hon'ble Court with clean hands. The Hon'ble City Civil Court, as long back as the year 2012, has observed that the Appellant has failed to prove their possession over the suit property.
- (ix) The Appellant has not made out any ground on which the order dated 19.10.2023, Mutation Entry No. 8211 should be deleted or set aside. In the grounds, the Appellant only says that the Mutation Entry No. 8211 is bad in law, without procedure and without giving notice under the Maharashtra Land Revenue Code, and that the Circle Officer did not understand the City Civil Judgment, and on this ground alone the Mutation Entry No. 8211 be set aside. However, the City Civil Judgment of the Competent Civil Court cannot be interpreted by the Appellant, as the Appellant has also filed a Notice of Motion No. 3910 of 2022, and therefore the Appellant cannot raise the issue of City Civil Judgment before this Forum.
- (x) A notice was issued to Appellant by the Revenue authorities, but he did not appear. In the Panchnama made by the Talathi, it is recorded that the Respondent No. 2 is in physical use, occupation, possession and enjoyment of the said property. The Appellant has filed an appeal before SDO, MSD, challenging the order dated 19th October 2023 and the Mutation Entry No. 8211. The said appeal is pending.
- (xi) It is clear that the Appellant herein is not in possession of the said property, nor is there any structure on the said property apart from **the structure of the Respondent No. 2 to**

  
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**which the Appellant is seeking electricity connection.** The Respondent No. 1 AEML has rightly rejected the application of the Appellant.

- (xii) It is denied that the Appellant already had Account No.150888770, on the same plot earlier. The said Electricity Meter belonged to one Mr. Singh who was in use, occupation and possession of the structure standing on the said plot of land. The said meter somehow got transferred in the name of the Appellant only for the purpose of creating some or the other evidence. The Appellant was never in possession of any structure and/or the electricity connection as alleged. The electricity connection pertaining to the office structure standing on the said immovable property belongs to the Respondent No.2 viz. account no 153377810. On record is the copy of the electricity meter showing that the Respondent No.2 is in possession of the structure, and also various documents showing his possession. Exhibit-5 is the copy of notice dated 23.08.2013 from the Pest Control Officer, 'R' North Ward. Exhibit-6 is a copy of Shop and Establishment License issued in the favour of Respondent No. 2 since the year 2012-13. The same is still valid and renewed from time to time. It is denied that, due to not paying bills on time, the power supply was disconnected by Respondent No.1. The Appellant has deliberately not mentioned for which period the bills were not paid and when the electricity connection was allegedly disconnected.
- (xiii) The Appellant is applying meaning and interpreting the City Civil Judgment, only to suit his purpose. The Respondent No.2 denies that the said City Civil Judgment is ex-parte as alleged.
- (xiv) Under the circumstances, the present representation of the Appellant be dismissed

### **Analysis and Ruling**

5. Heard the parties and perused the documents on record. The Appellant applied for a new connection on 10<sup>th</sup> August 2023 at the premises under dispute for protection of the property. The Respondent No.1 conducted a survey and issued a demand notice on 24<sup>th</sup> August 2023; the Appellant made the payment on 25<sup>th</sup> August 2023. The service work was executed in the

  
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meter cabin around 22<sup>nd</sup> September 2023. However, while the work was in progress for fixing the meter, the Respondent No.1 received a letter dated 26.09.2023 from Respondent No.2, Diwakar Laxman Gondane, objecting to the installation of the meter box and supply of electricity to the premises, as he claimed to have possession / ownership.

6. It is noted that Diwakar Laxman Gondane, Proprietor of Prashant Developers & Civil Construction, instituted a suit before the Hon'ble City Civil Court at Bombay (S.C. Suit No. 2170 of 2012) wherein the Plaintiff prayed for perpetual injunction against the defendants (Dahisar Navjeevan CHS & Ors.) to restrain them from interfering with, obstructing, disturbing in any manner the peaceful use and possession of the Premises, and to restrain the defendants from creating any third party right against the Premises. The Hon'ble Court observed that Diwakar Laxman Gondane is in possession of the land by virtue of the development rights, and he is entitled to protect the same.

7. Subsequently, an appeal has been filed by Dahisar Navjeevan Co-operative Housing Society Ltd.; before the Hon'ble High Court of Bombay challenging the above judgement passed by the Hon'ble City Civil Court. There are various cases and counter cases filed by the parties as recorded in detail in the previous pages.

8. In view of the above extensive litigation, and legal proceedings pending in the High Court regarding possession and ownership of the disputed land, the Respondent No. 1 has contended that it has no option but to deny the supply of power unless and until the possession of the said property is confirmed by the Hon'ble Bombay High Court.

9. It is necessary to refer to the concerned regulations of the Commission for clarifying the regulatory stand in cases where multiple litigation is pending in the High Court Bombay. Also, the Schedule B declaration is wrongly submitted by the Appellant, and he has hidden the facts about the above extensive litigation going on.

  
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a) CGRF & EO Regulations 2020 state that

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

(a) .....

.....  
(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;

.....  
➤ 19.25 The Electricity Ombudsman may reject the representation at any stage, if it appears to him that the representation is:

(a) frivolous, vexatious, malafide;

(b) without any sufficient cause;


(c) there is no prima facie loss or damage or inconvenience caused to the Complainant:

Provided that the decision of the Electricity Ombudsman in this regard shall be final and binding on the consumer and the Distribution Licensee: Provided further that no representation shall be rejected in respect of sub-clauses (a), (b), and (c) unless the Complainant has been given an opportunity of being heard.

➤ Schedule B : REPRESENTATION BEFORE ELECTRICITY OMBUDSMAN

.....  
.....  
**13. DECLARATION**

(a) I/ We, the consumer /s herein declare that: (i) the information furnished herein above is true and correct; and (ii) I/ We have not concealed or

  
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*misrepresented any fact stated in hereinabove and the documents submitted herewith.*

.....  
.....


***(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.***

- b) Supply Code & SOP Regulations 2021 states that  
➤ “24. Standards of Performance of Distribution Licensees

.....  
*the Distribution Licensee shall not be held responsible for the delay, if any, in giving supply on account of problems relating to statutory clearances, right of way, acquisition of land or the delay in Consumer’s obligation which is beyond the reasonable control of the Distribution Licensee or due to force majeure events.”*

In view of the above, the representation of the Appellant deserves to be rejected, considering the multiple cases and extensive litigation which is going on in various courts over the property issue, a fact which was hidden and not openly declared by the Appellant while filing this representation.

10. I concur with the findings of the Forum, as the representation revolves around deciding the title and ownership of the property, which does not come under the purview of the undersigned. There are various claims and counter claims relating to documents and alleged forging of documents. The undersigned is not an appropriate authority for adjudication of such property disputes, which is the main issue in the case. The case, therefore, needs to be thoroughly investigated and adjudicated by the appropriate civil authority. The Appellant is free to get the dispute resolved in the appropriate Forum. There is no reason to interfere in the order of the Forum. The Forum has rightly rejected the grievance with a reasoned and speaking order.

  
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11. The Respondent is directed to comply with the Forum's order and to refund the charges collected from the applicant for releasing the new connection.

12. The present representation is rejected and disposed of accordingly.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)



(Dilip Dumbre)  
Secretary  
Electricity Ombudsman Mumbai

