

BEFORE THE CONSUMER GRIEVANCE REDRESSAL FORUM
B.E.S. & T. UNDERTAKING

(Constituted under section 42(5) of Electricity Act 2003)

Ground Floor, Multistoried Annex Building,
BEST's Colaba Depot
Colaba, Mumbai - 400 001

Telephone No. 22853561

Representation No. N-G(N)-112-2011 dt . 24-01-2011

Shri. Ashok Kumar & Kavita JaisinghaniComplainant

V/S

B.E.S.&T. UndertakingRespondent No.1

Mrs. Papal R. BarayRespondent No.2

Present

Quorum :
1. Shri R U Ingule, Chairman
2. Shri S P Goswami, Member
3. Smt Varsha V Raut, Member

On behalf of the Complainant : 1. Shri Ashok Kumar Jaisinghani
2. Smt Kavita Jaisinghani

On behalf of the Respondent No.1 : 1. Shri P.S. Deshpande, A.O.C.C. 'G/N'
(BEST Undertaking) 2. Shri V.R. Parate, Supdt. CC 'G/N'

On behalf of the Respondent No.2 : 1. Mrs. Papal R. Baray
2. Mrs. Maya A. Vatnani
3. Mrs. Mariaum Iqbal Mistry

Date of Order : 28-03-2011

Judgment by Shri. R.U. Inqule, Chairman

Shri. Ashok Kumar & Kavita Jaisinghani, "CASA Luna" Bldg, 45, L.J. Road, 1st X Lane, Flat no.1, Grd flr, Mahim (W), Mumbai - 400 016 has come before Forum for grievances regarding change of name pertaining to A/c no. 639-518-003*6 (Residential), Meter No. D081778.

Complainant has submitted in brief as under :

- 1.0 The complainant has approached to IGR Cell of the Respondent on 14.9.2010 regarding change of name pertaining to A/c no. 639-518-003*6 (Residential), Meter No. D081778.
- 2.0 Not satisfied with the reply of respondent's IGR Cell dtd. 1-11-2010, complainant approached to CGR Forum in schedule 'A' format on 20.01.2011.
- 3.0 The complainant has mentioned in schedule 'A' that as the respondent has asked NOC of society from him for effecting change of name same should also be asked from Papal R. Baray having A/c no. 639-518-017 with commercial tariff in the same premises. If the N.O.C is not asked by the Respondent from Papal R. Baray then status-quo should be maintained i.e. the change of name that was done in his name earlier should be reverted. Else, the earlier name of Sarswati N. Jaisinghani may be continued for both the accounts i.e. 639-518-017*6 (presently in the name of Papal R. Baray) for shop & 639-518-003*6 (presently in the name of Sarswati N. Jaisinghani) of residence.
- 4.0 The complainant requested the Forum to re-examine the issue and give justice or order on suggestions made by him in para 18 of his grievance.

**Respondent No.1 (BEST Undertaking) in its written statement
in brief submitted as under :**

- 5.0 Shri. Daulatram G. Jaisinghani was occupying flat no. 1 at Casa Luna Building which was a rented property owned by D'luna Apartments CHS Ltd. The rent receipts were issued in the name of Shri. Daulatram Jaisinghani being a tenant till today.
- 6.0 Shri. Daulatram had 3 sons and a daughter (Ref. his will dt. 22-08-1977). However only one of his son, i.e. Naraindas, Smt. Saraswati (wife of Naraindas) and their children viz Ashok kumar and Rani V. Manghani (her married name) were staying with Shri. Daulatram Jaisinghani.
- 7.0 The will of Shri. Daulatram Jaisinghani which declared Shri. Ashokkumar Jaisinghani as his legal heir, was not probated and there arose a dispute regarding tenancy of the flat no. 1 after the death of Shri. Daulatram Jaisinghani.

- 8.0 The electrical installation of A/c no. 639-518-003 was standing in the name of Smt. Saraswatidevi Jaisinghani who expired on 19-02-2008. Shri. Ashokkumar and Kavita Jaisinghani had applied for extension of load along with the change of name vide requisition no. 71000891 dt. 21-05-2009.
- 9.0 We require following documents for change of name in case of residential connection.
- NOC from Previous consumer.
 - Rent receipt in the name of present applicant.
 - NOC from the landlord in case of rented property.
- 10.0 Shri. Ashokkumar Jaisinghani has stated in para. - 2 that he had submitted copies of Ration Card, Election Card, Passport and Death Certificate of Smt. Saraswati Jaisinghani. However copies of rent receipt and NOC from landlord were also submitted on behalf of Shri. Ashokkumar Jaisinghani against which the electrical installation was transferred in the name of Ashokkumar and Kavita Jaisinghani.
- 11.0 Subsequently Mrs Papal R. Baray obtained the copies of rent receipt and NOC of Landlord and got verified from D'luna Appartments C.H.S.Ltd. which turned to be fake.
- 12.0 Since Shri. Ashokkumar Jaisinghani had submitted fake rent receipt and NOC from landlord the change of name was cancelled and status quo was maintained. The electric installation can be transferred in the name of Shri Ashok Kumar Jaisinghani if he is able to submit rent receipt and NOC from Landlord Certifying him as tenant of CASA LUNA CHS. The electrical installation can be retransferred if Shri. Ashokkumar is able to submit rent receipt and NOC from landlord, certifying him as tenant of CASA LUNA Appartments C.H.S. Ltd.
- 13.0 Requisition no. 71000891 was registered in the name shri. Ashok Kumar and Kavita Jaisinghani for extension of load along with the change of name for Consumer no. 639-518-003 the applicant had submitted death Certificate of late Smt. Saraswati N. Jaisinghani, Naraindas Jaisinghani, Daulatram Jaisinghani along with the NOC from landlord or CASA LUNA Building and rent receipt for the month of April to June 09 issued by CASA LUNA Building.
- 14.0 The higher capacity Meter No. D081778 was installed on 02-06-2009 in the name of Ashok kumar and kavita Jaisinghani and the change of name was effected in the bills of June 09 of the consumer.
- 15.0 Smt. Papal Baray vide her letter dt. 13-01-2010 had disputed change of name in favour of Ashokkumar and Kavita Jaisinghani saying the document submitted by the applicant are forged. In support of her contention she had submitted the letter from office bearer of D'Luna Appt. CHS.Ltd. wherein it is mentioned that the document submitted by

Ashokkumar Jaisinghani like NOC from the society was not issued by office bearers of the society.

- 16.0 Since it was established that the change of name is effected on the basis of forged documents the Undertaking decided to maintain status quo by retransferring the meter in the name of original consumer that is Saraswati N. Jaisinghani. Accordingly vide letter dt. 23-06-2010 Shri. Ashok kumar and Kavita Jaisinghani were informed about the decision of Undertaking to maintain status quo.
- 17.0 When the consumer has approached the Divisional Engineer, the applicant was orally asked to submit NOC from CASA LUNA Building as stated in our letter dt. 01-11-2010.
- 18.0 The change of name was disputed by Papal Baray saying the change of name effected was based on forged documents. Beside as per order of small cause court dt. 02-11-2006 Shri. Papal Baray was also one of the quo tenant and as per order if the tenancy is to be transferred in any of the legal heir's name then the consent of joint tenants is required. However in the above case the consent of Papal Baray was not obtained at the time of change of name. Therefore the Undertaking decided to retransfer the meter in the name of original consumer.
- 19.0 The change of name of A/C 639-518-017 has not been retransferred in the name of Saraswati N. Jaisinghani for the following reasons:
 - 19.1 The change of name was effected in the name of Shri. Papal baray on 28-10-1996. The document submitted in 1996 are not available with the Undertaking.
 - 19.2 The change of name in favour of Papal Baray was not objected by the original consumer till her death on 19-02-2008 nor by Ashok jaisinghani till 30-03-2009.
 - 19.3 The consumer has valid Shop and Establishment license since 1992 and she is in physically occupant of the premises.
- 20.0 In view of the above, the electrical installation can be transferred if Shri. Ashok Kumar and Kavita Jaisinghani are able to submit rent receipt and NOC from Landlord, certifying him as a tenant of CASA LUNA Apartments CHS Ltd.

**Respondent No.2 (Mrs. Papal R. Baray) in her written statement
in brief submitted as under :**

- 21.0 Respondent No.2 Mrs. Papal R. Baray submitted her written statement on 28-2-2011 & prayed before the Forum to consider her grievance of the matter and to reexamine the submitted documents of Mr. Ashok Kumar & Kavita Jaisinghani and requested to be heard as being

necessary party. She further prayed to retain status-quo obtained on 23-6-2010 for A/c no 639-518-003*6 for residential flat in the name of late Saraswati N. Jaisinghani. She requested not to allow the change of name on Mr. Ashok Kumar & Kavita Jaisinghani's name.

REASONS :

- 22.0 We have heard the complainant in person viz. Shri. Ashok Kumar & Smt. Kavita Jaisinghani and learned representatives of Respondent No.1 (BEST Undertaking) viz. Shri P.S. Deshpande, Shri V.R. Parate & Respondent No.2 Mrs. Papal R. Baray. Perused papers.
- 23.0 We observe that admittedly electric meter with A/c no. 639-518-003 was standing in the name of the deceased mother of the complainant viz. Smt. Saraswati N. Jaisinghani, who expired on 19-2-2008. Thereafter the complainant had applied on 21-5-2009 for extension of load alongwith *change of name*. The complainant further submits that he had submitted alongwith the application for *change of name*, the documents viz. (i) Ration Card (ii) Election Card (iii) Passport copies (iv) Death certificate of his mother and (v) Senior Citizen card.
- 24.0 Further admittedly, the Respondent BEST Undertaking acting on the requisition application submitted by the complainant, replaced the meter on 2-6-2009 and also effected *change of name*. Accordingly the complainant received electricity bill in the month of June 2009 in his name.
- 25.0 It is from the month of July 2010 the electricity bill started coming in the name of his deceased mother viz. Smt. Saraswati N. Jaisinghani instead of complainant's name. The same has triggered of the controversy to be resolved in the instant complaint by this Forum.
- 26.0 Per contra the Respondent BEST Undertaking submits that as stated by the complainant in his instant complaint, he had submitted alongwith *change of name* application the documents namely (i) Ration Card (ii) Election Card (iii) Passport (iv) Death certificate of his mother. Pertinent to note at this juncture that the Respondent BEST Undertaking further submits that alongwith these documents the complainant had also submitted copies of (i) Rent Receipt and (ii) No Objection Certificate from the Landlord, i.e. the society.
- 27.0 We further observe that that the sister of the complainant Mrs. Papal R. Baray by approaching the secretary of the owner viz. D'luna Apartments C.H.S. Ltd, CASA LUNA Building, 45 L.J. Road, Mahim, Mumbai - 400 016, vide her letter dtd. 10-12-2009 (Placed on file at Exhibit-29/C) by submitting the xerox copies of the rent receipt and NOC allegedly submitted by the said owner, requested to verify the same.

- 28.0 To our surprise, the said owner of the premises, had informed Mrs. Papal R. Baray vide its letter dtd. 26th Dec, 2009 that the rent receipt and NOC allegedly furnished by it, were fake not genuine (Exhibit-31/C). We further observe that the owner thereafter, vide its advocate Shri. K.D. Verma, has served a notice on the complainant dtd. 15th Jan, 2010 and called upon the complainant to submit his say in the matter of submitting such fake rent receipt and NOC to the Respondent BEST Undertaking under its letterhead, signature and seal or else to face the legal consequences.
- 29.0 We further find that in a clear term the complainant has denied having furnished the said 2 documents namely (i) Rent Receipt & (ii) NOC allegedly under the signature and seal of the landlord. As per the submission made by the Respondent BEST Undertaking as it was evident that the "*change of name*", was effected on the basis of forged and fake documents viz. (i) Rent Receipt & (ii) NOC of the owner society, therefore for maintaining status-quo the meter was again retransferred in the name of original consumer viz. late Smt. Saraswati N. Jaisinghani, the mother of the complainant. The said decision was also communicated to the complainant by the Respondent BEST Undertaking. Accordingly we find the said letter placed before us on file at Exhibit-39/C.
- 30.0 A vital question therefore, arises before us for consideration as to how these 2 fake and forged documents came to be submitted before the Respondent BEST Undertaking, for effecting *change of name* in the electricity meter provided to the complainant. The Respondent No.2 Mrs. Papal R. Baray vehemently submitted that in order to bring the name in the account number of the residential electricity meter, the complainant has deliberately forged these 2 documents and submitted to the Respondent BEST Undertaking. Therefore his name is liable to be withdrawn from the electricity bill and to restore the name on his deceased mother. In counter the complainant submits that the master mind behind such criminal act has been of Respondent No.2, Mrs. Papal R. Baray. She has alone submitted the said fabricated documents to the Respondent BEST Undertaking, to bring the complainant in problem.
- 31.0 On giving a thoughtful consideration to these rival contentions made by the complainant and his sister Respondent No.2, Mrs. Papal R. Baray, we do not have any hesitation to hold that admittedly these 2 forged documents viz. (i) rent receipt dtd. 18th May 2009, placed on file before us at Exhibit-27/C and the NOC at Exhibit-25/C to bring name of the complainant in place of his deceased mother, must have been submitted by the complainant himself. We further observe that there cannot be even a slim chance available to the Respondent No.2, Mrs. Papal R. Baray to annex or attach such fabricated documents alongwith the application submitted by the complainant to the Respondent BEST Undertaking, for a simple reason that the Respondent Mrs. Papal R. Baray cannot have any access to the documents which are in the custody

of the Respondent BEST Undertaking. Therefore a fact remains that a false and fabricated documents on the letterhead of the owner of the premises alongwith signature of its office bearer and a rubber seal, came to be submitted to the Respondent BEST Undertaking in order to show that the said owner of the premises does not have any objection for brining the name of the complainant in place of name of his deceased mother. We thus find that to establish the 'occupancy' in the premises under consideration to the satisfaction of the Respondent BEST Undertaking, in an utter clandestine & surruptious way, the complainant has ventured in submitting the said fabricated rent receipt and NOC.

- 32.0 Pertaining to note that, it is the complainant who was to be benefited from such fraudulent act. In our considered view the Respondent BEST Undertaking has rightly brought back the name of the deceased mother Smt. Saraswati N. Jaisinghani in the electricity bill, in place of the complainant, to restore the original position, which obviously amounts to maintaining a "*status-quo*". At this juncture we may advert to a highly untenable prayer made to this Forum by the complainant. Therein we find that in alternative prayer the complainant has submitted that the name of his deceased mother i.e. the original consumer be brought back in both the electric bills for A/c no. 639-518-017 for shop and that for A/c no. 639-518-003 for residential flat, for which he would not have any objection.
- 33.0 We thus find that instant complaint has been filed by the complainant not with any genuine prayer for restoring the name of the complainant in the electricity bill for A/c no. 639-518-003 but for settling a personal rivalry the complainant is nursing with her sister Mrs. Papal R. Baray.
- 34.0 At this juncture we may advert to one more contention raised by the complainant that he has been declared as a joint tenant in the premises under consideration alongwith his deceased mother by the Small Causes Court at Mumbai in Appeal No. 333 of 2000. A copy of the said Judgement dtd. 2-11-2006 has been placed on file before us at Exhibit-43/C. For the purpose of deciding the instant complaint, we find that the suit filed by the complainant before the trial court was dismissed, so also the appeal arising therefrom, by the Appellate Court. We therefore do not find any operative order passed by the competent court declaring the complainant being either "occupant or owner" of the premises under consideration, for the purpose of implementation of the provision provided under the Electricity Act, 2003 and the regulations under the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 specified therein. We therefore do not find any warrant to go through this Judgment delivered by the concerned court, in a detail and thread bear manner.
- 35.0 In the aforesaid observations and discussions we hold that for want of any merit, the complainant under consideration is liable for dismissal. Accordingly we do so.

ORDER :

1. The complaint no. N-G(N)-112-2011 dt . 24-01-2011 stands dismissed.
2. Copies be given to both the parties.

(Smt Varsha V Raut)
Member

(Shri S P Goswami)
Member

(Shri R U Ingule)
Chairman