

CA No. Applied For
Complaint No. 270/2023

In the matter of:

Akshay AroraComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mr. P.K. Singh, Chairman
2. Mr. Nishat A Alvi, Member (CRM)
3. Mr. S.R. Khan, Member (Technical)
4. Mr. H.S. Sohal, Member

Appearance:

1. Mr. Hemant Goel, Counsel of the complainant
2. Ms. Ritu Gupta, Mr. Nishant Chauhan & Ms. Shweta Chaudhary,
On behalf of BYPL

ORDER

Date of Hearing: 17th October, 2023
Date of Order: 31st October, 2023

Order Pronounced By:- Mr. P.K. Singh, Chairman

1. The brief facts of the case giving rise to this grievance are that complainant Mr. Akshay Arora applied for new connections vide application no. 8006191920, 8006191507, 8006191679 and 8006192524 at premises no. 16/3-A, Front side Second floor, Geeta Colony, Delhi-110032, but respondent rejected his applications for new connection on the pretext of requirement NOC from MCD or completion cum

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2. OP in its reply briefly submitted that complainant is seeking fresh electricity connections in respect of various floors at property bearing no. 16/3A, Front Side, Geeta colony, Delhi. Deficiency letters were issued for the reason as applied address was found in MCD objection list vide letter no. EE(B)-I/SH-S/2022/D-10 dated 10.01.2022. The subjected property is mentioned at serial no. 10, in the shape of u/c found at ground floor, first floor, second floor and third floor in the same of room, toilet etc with projection of Mpl land.

OP further added that the complainant at the time of application for temporary connection had submitted notarized GPA dated 24.01.2020 issued by Sanjay in favor of complainant for 50 sq yards of property and now the complainant has submitted registered GPA dated 03 February for 42 sq yards of property which is executed by Sukhdev in favour of complainant and Ms. Rekha. In the notarized GPA there is reference of front side whereas in registered GPA there is no reference of front or back side. In the chain of registered GPA in the form of registered relinquishment deed subject property is described as back portion property.

OP further added that RTI filed along with complaint by the complainant, states that front portion of subject property is not booked. As per the registered relinquishment deed, the subject property is situated towards back side. Thus, the RTI is not in respect to the property of the complainant.

3. On hearing dated 31.08.2023, counsel of the complainant stated that he had applied for four electricity connections on the basis of documents given along with the compliant. OP has released two electricity connections at first floor from the four applied connections. OP was asked to verify the same and under what circumstances they have released the connections. OP was also directed to submit K.No. files of CA no. released.

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4. OP in its written submissions submitted that complainant at the time of application for temporary connection had submitted notarized GPA dated 24.01.2020 issued by Sanjay in favour of complainant for 50 sq yards of property and now the complainant has submitted registered GPA dated 03 February for 42 sq yards of property which is executed by Sukhdev in favor of complainant and Ms. Rekha. In the notarized GPA there is reference of front side whereas in registered GPA there is reference of back side. In the chain of registered GPA in the form of registered relinquishment deed dated 31.10.2019 executed in favour of Sukhdev, the subject property is described as back portion property.




The complainant's contention that OP released two connections on the basis of same documents, in this regard OP stated that at the time of grant of temporary electricity connection it came to the knowledge of respondent that temporary connection in name of Ms. Shakuntla was granted on the basis relinquishment deed dated 26.11.2019 executed in favor of Ms. Shakuntala wherein property is described as front portion. Along with relinquishment deed there is one will of same date executed by Ms. Shakuntala in favor of Swaran Kumar wherein property is described as front portion. The released connections were granted on the basis of GPA dated 24.01.2020 which is in respect of front portion.

Thus, in respect of same property there are various set of documents some of which describes property as front side property and some of which describes same property as back side property.

5. OP also submitted site visit report dated 29.09.2023 which shows the building is of 50 sq yards and structure is parking plus four floors. Site visit further states that there as two building of address 16/3 and both are build up on same time. Both the buildings are in MCD.

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6. We have gone through the submissions of both the parties and from the perusal of site visit report submitted by OP it is clear that there are two premises of the same address and also both the buildings are booked by MCD. Sketch of buildings shows that both the properties are in front and back of each other and is numbered as 16/3A and other as 16/3. Apparently it is clear that both the properties are sub-divided from one single property and both are booked by MCD. Also, placed on record is lease deed of 30th November 1965 between The President of India and Mr. Sona Mal s/o Gopal Dass for property no 16/3 in Jheel Khureja, Delhi measuring 100 sq yards. This, it is clear that 16/3 and 16/3-A are sub-divided property.

Complainant placed on record relinquishment deed dated 31.10.2019 by Smt. Shakuntala, Sh. Swaran Kumar, Smt. Mamta and Smt. Bindu all legal heirs of Sh. Mahender Lal, who is son of Sona Mal in favour of Sh. Sukhdev who is also legal heir of Sona Mal and son of Sh. Amar Nath (also son of Sh. Sona Mal) for area measuring 42 sq yards. There is another relinquishment deed placed on record by the complainant at the time of obtaining temporary connection which is dated 24.11.2019 in favour of Shakuntala wife of Mahender Lal and daughter in law of Sona Mal by Sh. Sukhdev, s/o Amar Nath, Sh. Swaran Kumar, Smt. Mamta and Smt. Bindu for property bearing no. 16/3, measuring area 58 sq yards front portion along with whole of its structure of according to the site.

Thus, it is clear from the above documents that the property was originally allotted was of 100 sq yards and later on as per above two relinquishment deed it was divided into legal heirs of two sons of Sh. Sona Mal. Legal heir of Amarnath was allotted 42 sq yards back portion of property 16/3 and Shakuntala w/o Mahender Lal other legal heir of Sona Mal was allotted 58 sq. yards front portion of the property 16/3.

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The complainant Mr. Akshay Arora applied for new electricity connections at 16/3-A, front side, Geeta colony, Delhi-110031. The relinquishment deed above mentioned shows that complainant has derived his title from Sukhdev vide registered GPA dated 02.02.2021 and relinquishment deed dated 31.10.2019 shows that Shakuntla Devi has transferred her rights in favour of Sukhdev. In both the deeds right of property which was given to complainant bears the property details as built up property 16/3, (Block No. 16, Otr. No. 3) measuring area 42 sq yards i.e. 35.12 sq meters **BACK PORTION**. As per letter no. EE(B)-I/SH/S/2022/D-10 dated 10.01.2022 of Municipal Corporation of Delhi, the whole property bearing no. 16/3, Geeta Colony, Delhi-110031 is booked by MCD at sl. no. 10. Even if the information given by MCD in RTI Act dated 15.03.2023, property number 16/3-A, Front Side, Geeta colony, Delhi-110031 is not shown booked under unauthorized construction list is of no use of the complainant because as per title deed his property is situated at Back Side of property no. 16/3, Geeta Colony, Delhi-110031.

The Supreme Court of India in the matter WP(C) 4677/1985 (M C Mehta Vs UOI) vide order dated 24.04.2018, expressed its concern on constructions in unauthorized colonies, and directed that construction activity be stopped with immediate effect. Concerned authorities were directed to ensure compliance and a task force was constituted for removal of encroachment and unauthorized construction and implementation of bye-laws.

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The Supreme Court in the matter "Supertech Vs emerald Court Owners Resident Welfare Association (2021) 10 SCC I observed that unauthorized construction destroys the concept of planned development and places unbearable burden on basic amenities provided by local authorities. It was imperative for the public authorities to not only demolish such construction but also to impose a penalty on wrong doers involved.

As far as, against the provision of law, OP has given any connection in MCD booked portions, it will be sole responsibility of the Discom only.

7. Therefore, OP has rightly rejected the applications of the complainant of new connections.

ORDER


Complaint is rejected. Respondent has rightly rejected the applications of the complainant for new connections.


The OP is also directed to file compliance report to this office within 21 days from the issue of this order.


The case is disposed off as above.

No order as to the cost. Both the parties should be informed accordingly.
Proceedings closed.

ON LEAVE
(H.S. SOHAL)
MEMBER



(NISHAT A ALVI)
MEMBER (CRM)


(S.R. KHAN)
MEMBER (TECH.)


(P.K. SINGH)
CHAIRMAN

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