



CA No. 152903157
Complaint No. 67/2022

In the matter of:

Kalyan GautamComplainant

VERSUS

BSES Yamuna Power LimitedRespondent

Quorum:

1. Mrs. Vinay Singh Member(Law)
2. Mr. Nishat Ahmad Alvi, Member (CRM)

Appearance:

1. Ms. Indu Gautam, Complainant
2. Mr. Ritu Gupta, Mr. Rajan Pasan & Ms. Shweta Chaudhary, On behalf of BYPL

ORDER

Date of Hearing: 05th May, 2022
Date of Order: 12th May, 2022

Order Pronounced By:- Mrs. Vinay Singh, Member (Law)

Briefly stated facts of the case are that the respondent has installed illegal and unauthorized connection on her premises.

The complainant's grievance is that she is legal and rightful owner of the premise no. 30/10, Block-10, Gali No. 6, Nariwara, Vishwas Nagar, Delhi-110032, but the respondent installed an electricity connection having CA No. 152903159. It is also their submission that the said electric connection is illegal and unauthorized.

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Therefore, she requested the Forum to direct the respondent company for disconnection of illegal and unauthorized connection.

Notices were issued to both the parties to appear before the Forum on 25.04.2022.

The respondent in their reply stated that complainant in her capacity as purported owner of property bearing no. 30/10, Naiwara, Vishwas Nagar, Shahdara, Delhi-110032. The complaint is in respect of CA no. 152903159 which is registered in the name of Kalyan Dutt Gautam who is father-in-law of the complainant. As such it is important to implead him as party in the present complaint. It is also their submission that the complainant is seeking disconnection, claiming that the said connection has been installed illegally and without her consent.

Respondent further added that both the parties were called in office with relevant documents and from submissions of both the parties and on the basis of documents placed on record it is apparent that there is a property dispute between the parties which is also pending before Court of Law.

The matter was listed for hearing on 25.04.2022, when Forum opined that Mr. Kalyan Dutt Gautam to be made party in the present case. Respondent was also directed to produce K.No. file of connection of Kalyan Dutt Gautam.

The matter was finally heard on 05.05.2022, when complainant submitted her rejoinder and written submissions. Notice was issued to Mr. Kalyan Dutt Gautam but none appear on his behalf. Forum raised certain queries from respondent. Respondent was asked to file site visit report till 09.05.2022. Arguments heard and matter was reserved for orders.

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Kalyan Gautam approached the Forum on 09.05.2022 and filed an application to not to disconnect my electricity and also submitted that he is father of Hari Om Gautam and Hari Om Gautam is husband of Indu Gautam who is present complainant.

The complainant in her rejoinder refuted the contentions of the respondent as averred in their reply and reiterated her original complaint. She further submitted that respondent released the connection to Sh. Kalyan Dutt Gautam without any proof of ownership i.e. title deed of concerned property. Therefore, respondent deliberately and knowingly with the intention of corruption bypassed the norms of Delhi Electricity Act 2003 for installing new residential connection.

Respondent submitted their site visit report dated 09.05.2022 in which they stated that total area is 100 sq yards and building is divided into two portions 33 sq yards and 67 sq yards. One meter is installed at 33 sq yards in name of Kalyan Dutt Gautam having meter no. 55191123, constructed upto ground floor and first floor.

Plot of 67 sq yards constructed from parking + UGF to 3rd floor and have separate meters on each floor.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before we find that Kalyan Dutt Gautam is father of Sh. Hariom Gautam and Hariom Gautam is husband of Indu Gautam the complainant as submitted by Kalyan Gautam.

Kalyan Dutt Gautam is 82 years old person and took the electricity connection on the original documents i.e. Sale Deed of his wife Ram Shree. He is in possession of this property since 1972 after the purchase of this property in the name of his wife Lt. Smt. Ramshree of his own savings and earning. He

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worked as a teacher in Government School and still getting pension as he admitted before the Forum and paying the energy charges as and when raised by the BSES. Late Ram Shree sold her property equally to her three daughter-in-laws out of love and affection and without taking any money as Kalyan Gautam stated before the Forum. Two daughter-in-laws namely Meera Gautam and Usha Gautam. Meera and Usha further sold their share.

The property share of 33% in the name of Indu Gautam is in possession of Kalyan Dutt Gautam since 1972 after the purchase and now he is 82 years old and in last stage of his life. Children instead of caring for father in old age are fighting for his property.

The respondent released the connection on the basis of property documents and occupation/possession of the property by Sh. Kalyan Dutt Gautam. And the complainant is harassing old parent who has done everything for upbringing his children, and wants him to live without light.

Electricity connection does not create any right over the property. Even the trespasser has a right to use electricity as hold by Supreme Court of India.

Respondent has granted the connection to Kalyan Gautam, after seeing all the original document of registered sale deed of 1972 by Sub-Registrar, Delhi and since then, Kalyan Gautam is in the occupation/possession of the property which he purchased by his own earnings.

As per Section 43, the respondent has a duty to provide the electricity to the person who is in occupation or in possession of this property.

Abhimanyu Mazumdar & Others v/s The Superintending Engineer & Others
Whether unauthorized occupiers, encroachers of any premises and squatters of any premises are legally entitled to file an application under Section 43 of the Electricity Act, 2003 claiming status as 'occupier'. Then even an unauthorized

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occupier is entitled to get electricity connection in the same premises provided it shows that encroacher is in settled possession of the said premises.

Amarendra Singh vs Calcutta Electric Supply ... on 10 January, 2008

In view of the provisions in Section 43 of the Electricity Act, 2003, the appellant herein being the occupier is entitled to enjoy the electricity at the occupied portion of the premises in question.

As decided in Gaurav Sharma Vs UP State, decision of Allahabad High Court on September 18, 2018. Even, if there is a family dispute the electricity connection cannot be disconnected. As decided in Smt. Sushma Chaudhary Vs UP Power corporation by the Supreme Court AIR 2011/SC/2897 and also in Chandu Khamaru Vs Smt. Nayan Malik, a decision of Justice Ravindran and Sh. A.K. Patnaik in 2011. The Supreme Court emphasis the statutory right of an officer and the corresponding statutory obligation of the licensee to supply the electricity. And also observed by Supreme Court we have noticed, father is residing in different premises whereas petitioner is residing separately in the premises in question. He has applied for electricity connection. Son is naturally a successor of his father and we see no reason why the electricity cannot be granted. This is a clear case of dispute between father-in-law with his daughter-in-law and the NOC is not given or in other words no objection has been raised only on account of this dispute. Under the circumstances the applicant in spite of being son is forced to live without electricity. In our considered opinion petitioner case is covered by the judgment of this court. In view of the above the impugned order is quashed. Respondent is directed to re-consider for grant of electricity to the petitioner.

We are of opinion that complaint of complainant has no substance because Sh. Kalyan Gautam father-in-law of Indu Gautam is in occupation and possession of the property since 1972 after the purchase in name of his wife Lt. Smt.

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Ramshree, who was housewife, from his own earnings and savings because Kalyan Gautam was a teacher in a Government School. Late Ramshree sold this property to three daughter-in-laws with love and affection. Now the complainant wants disconnection of the electricity granted by the respondent to Sh. Kalyan Gautam on seeing the original sale deed and in occupation as per Section 43 of Indian Electricity Act 2003. Electricity connection does not create any right over the property and it is a case of family dispute as it seems by the record of the complainant. As decided by Supreme Court and High Court in so many cases as referred above. Also as decided by Himachal Pradesh High Court, Electricity is essential requirement of livelihood and it is right of a person to enjoy the electricity because as it is decided by **Himachal Pradesh High Court, in the matter of Madan Lal Vs State of Himachal Pradesh & Ors.** Where it was stated that the right to water and electricity supply is an integral part of right to life under **Article 21 of the Constitution of India.**

So, we direct the respondent not to disconnect the electricity because it does not create any right over the property instead Sh. Kalyan Gautam was purchaser of the property and he is in possession since 1972 after the purchase and still living there.

The case is dismissed as above.

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



(NISHAT AHMAD ALVI)
MEMBER (CRM)



(VINAY SINGH)
MEMBER (LAW)