

Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi –110 017

No. F.11(721)/DERC/2011-12/C.F.No.3049/169

Petition No. 54/2011

In the matter of: Complaint under Section 142 of the Electricity Act, 2003.

AND

In the matter of:

Mohan Lal Arora
A-718, Sushant Lok-I,
Gurgaon,
Haryana-122 002

...Petitioner

VERSUS

New Delhi Municipal Council
Through: Its Chairperson
Palika Kendra,
New Delhi

....Respondent

Coram:

**Sh. P.D. Sudhakar, Chairperson, Sh. Shyam Wadhera, Member &
Sh. J.P. Singh, Member.**

Appearance:

1. Sh. Panini Gupta, Ex. Engineer(Comml.), NDMC;
2. Sh. Parmod Sharma, AE (Comml.), NDMC;
3. Sh. S.C. Sharma, AE(D/S), NDMC;
4. Sh. Ashok Kumar, JE (Elect.) NDMC;
5. Sh. Murari Kumar, Advocate, Petitioner;
6. Sh. M.L. Arora, Petitioner;
7. Smt. Veena Arora, Petitioner;
8. Sh. Tarun Arora;
9. Sh. Sandeep Kumar.

ORDER

Date of Hearing: 27.03.2012
(Date of Order: 11.04.2012)

1. The instant complaint has been filed by Sh. Mohan Lal Arora, alleged owner of premises which includes Flat No. 128, Sarojini Market, New Delhi & Shop No. 128, which is a front portion of ground floor of above said

premises. He has alleged that the NDMC has given electricity connection to Smt. Santosh Arora, who is the illegal occupant of the above shop without his consent/ NOC in violation of existing Regulation. However, he has not illustrated which Regulation has been violated.

2. The brief matrix of the case is that:

- (i) The Petitioner was a registered consumer having K.Nos 12728 & 64835 (consumer No. 1014770) since 1983 as per the record of NDMC itself. Out of the total building only Shop No. 128 which is a front part portion of ground floor of above said premises, is allegedly illegally/unauthorizedly in possession of Smt. Santosh Arora. On 21.05.2001, the complainant requested NDMC for temporary disconnection of above said connections, so as to prevent the misuse of above electricity, which he claims was unauthorisedly occupied by Smt. Santosh Arora. On 31.05.2001, Smt. Santosh Arora applied for a new connection, which was released on 25.06.2001.
- (ii) While applying for the above connection it is alleged that Smt. Santosh Arora was not fulfilling even a single condition laid down in the application for a new connection. Even NOC from the owner was never obtained which is mandatory as per NDMC Policy/ DERC Rules/ EA, 2003 and this action is also in violation of Section 43 of EA, 2003.
- (iii) The complainant has alleged that on 11.01.2002, even after he had deposited Rs. 3,200/- as minimum charges bill of the disconnected period and Rs. 100/- as reconnection charges his disconnected connections were not restored and were treated as surrendered.
- (iv) It is alleged that the above connection which was in the name of Smt. Santosh Arora was disconnected on 20.04.2011 from the feeding point and the meter was removed as Smt. Arora failed to file any reply/response against the show cause notice. However, the same was again restored (temporarily) under the order of The Director (Coml.) passed on dated 26.04.2011. This was done on the request of the Smt. Santosh Arora with the condition that she will file reply of the

show cause notice. This was done without following the process and norms of NDMC as no document was produced by Smt. Santosh Arora and the electricity was restored on 26.04.2011.

- (v) The complainant has prayed for passing of an order for disconnecting the electricity connection given in the name of Smt. Santosh Arora at Shop No. 128, Sarojini Market, New Delhi and to take penal action against the Respondent U/s 142 of EA for violating the provision of section 43 of Electricity Act.

3. Respondent submissions:

- (i) Respondent has submitted that on the perusal of the record it was observed that as per record of the LDO and House tax department the owner of the above premises is Sh. Mohan Lal Arora, whereas NDMC has issued connection in the name of Smt. Santosh Arora, on the basis of Hon'ble High Court order wherein the possession of the said premises was given in the hand of Smt. Santosh Arora wife of Late Sh. O. P. Arora who was the authorised person to receipt rent from PNB.
- (ii) The electricity connection was disconnected on 20.04.2011 for want of reply of various show cause notices issued to the above consumer, Smt. Santosh Arora. This connection was restored on 26.04.2011 (temporarily) on the request of the alleged consumer subject to the outcome of the court case in the year 2001 and filing of reply of Show Cause Notice by Smt. Santosh Arora.
- (iii) Vide letter no. D-177/EE(Court)/2012 dated 23.03.2012, issued by Director Commercial, Sh. R.S. Godbole, the Respondent has further submitted that the above premises (shop) had originally been allotted in the name of Sh. Hans Raj and after his death this shop had been regularized in his son's name i.e. Sh. M.L. Arora (complainant) and ownership rights were granted in his favour and conveyance deed was executed on 01.06.1984 and hence held Sh. M. L. Arora as lessee of the shop.

- (iv) It has been clarified that the instant connection was given in the name of Smt. Santosh Arora on the advise of their law department, while taking into account the finding of the Hon'ble High Court in FRA No. 438/99, wherein, the Hon'ble court held that as the possession of the property was given to PNB by Sh. O.P. Arora at the time of execution of first lease and thus held that Sh. O.P. Arora was the landlord being the authorised person and the Respondent in the above petition i.e. Smt. Santosh Arora and his two sons are his heirs. It is also true that in the instant case, while deciding the above petition the Hon'ble High court has not decided the issue of ownership of the above property. So, it is clear from the above judgment that Sh. O.P. Arora was the landlord of the above premises for limited purpose of collecting the rent whereas, ownership rights were disputed.
- (v) Now, the Respondent has sought the advice of the Commission as to whether they can disconnect the electric supply of the above connection in absence of non submission of reply of show cause notice and documentary proof of title deed / NOC from the owner etc.
4. Commission heard the matter on 27.03.2012, where In the course of hearing the complainant again reiterated and objected to the action of the Respondent NDMC for restoring the electricity connection bearing No. 111416 Installed in the name of Smt. Santosh Arora, on 26.04.2011, which was disconnected on 19.04.2011 for want of reply of show cause notice issued to her along with reminders for submission of proof of title of property. It was alleged that she has failed to reply the Show Cause Notice till the date of disconnection and even up to today. It was also alleged that she has failed to file any proof/document/NOC from the owner of the premises, mandatorily required for seeking new electricity connection as per existing laws.
5. In reply to the above, the representative of the NDMC submitted that the above connection was restored temporarily on the request of Smt.

Santosh Arora, till finalization of above case by the Director (Coml.), NDMC. The decision in the said case i.e. Issue relating to submission of proof of title of property vis-à-vis reply of Show Cause Notice, is pending before Director (Commercial), who shall decide the above issue shortly.

6. The representative of the Respondent also invited the attention of the Commission on their communication dated 23.03.2012, wherein, they sought advice from the Commission on the above issue.
7. After hearing both parties & perusing the documents placed before it, the Commission is of the opinion that it may not be fair to intervene in the matter at this point of time as Commission cannot decide the ownership rights of the property, which is the basic ingredient of the above complaint and an issue which can only be decided by the competent civil court. As far as the issue relating to violation of any norms/rules/regulations while issuing an electricity connection in the name of Smt. Santosh Arora is concerned, the licensee/Respondent has already issued a Show Cause Notice to the party concerned in that regard and this is pending for a decision with the Respondent's Director (Coml.). Thus, it is now left to the Respondent to determine the issue of sanction of an electricity connection to Smt. Santosh Arora in accordance with the prevailing rules/instructions on the subject.
8. Hence, the above complaint is disposed of with the direction to the Respondent to take appropriate steps to decide the issue of sanction of electricity connection to Smt. Santosh Arora positively within three months after giving full opportunity to both parties of being heard.
9. Ordered accordingly.

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(Shyam Wadhera)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON