

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 144 of 2024

In the matter of Change of Name

Pappulal Shivpati VishwakarmaAppellant

V/s.

Brihanmumbai Electric Supply & Transport Undertaking Respondent No.1
G/North (BEST Undertaking)

Jamunadevi Lalchand VishwakarmaRespondent No.2

Appearances:

Appellant : Pappulal Shivpati Vishwakarma

Respondent No. 1: 1. R. K. Kamble, Superintendent (CC G/N)
2. K. S. Popere, AO (CC G/N)

Respondent No. 2: Lalchand Vishwakarma, Representative


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

Date of hearing: 20th December 2024

Date of Order : 1st January 2025

ORDER

This Representation was filed on 28th October 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


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Order dated 23rd August 2024 passed by the Consumer Grievance Redressal Forum, BEST Undertaking (the Forum). The Forum by its order allowed the grievance and directed as below:


“2. The Respondent no. 1 is directed to revert the name of the Respondent no. 2 (Shri Pappulal Vishwakarma) to the name of Complainant (Shri Jamunadevi Lalchand Vishwakarma in respect of the A/c no. 797-307-178 and meter no. 2262882 situated in the said premises.

3. The Respondent no. 1 is directed to critically verify the documents and follow due procedure in future.”

2. Preamble: Family Tree in this Case:

- (a) Late Shri. Jairam Rambharose Vishwakarma (elder brother who was unmarried), Shivpati Rambharose Vishwakarma [middle brother having Son Pappulal Shivpati Vishwakarma (Appellant)], and Late Shri. Sukhai Rambharose Vishwakarma (Younger Brother having Daughter Jamunadevi Lalchand Vishwakarma: married, Respondent No. 2) were real brothers.
- (b) According to the Appellant, the property bearing Room No. C-81, Social Nagar, Dharavi Laxmi Baug, M. G. Road, Dharavi, Mumbai 400017 is a property (Room / Shop) purchased jointly by the three brothers, Late Shri. Jairam R. Vishwakarma, Shivpati Rambharose Vishwakarma and Shri Sukhai Rambharose Vishwakarma, in the name of the younger brother Sukhai Rambharose Vishwakarma. On the contrary, the Respondent No. 2 claims that this property belonged to her father Sukhai, who had purchased it on his own.
- (c) The Original electric connection (A/c No.797-307-001) was in the name of Sukhai Rambharose Vishwakarma prior to the year 2014.

3. Aggrieved by the order of the Forum, the Appellant [*the Respondent No. 2 at the Forum*] has filed this representation. A physical hearing was held on 20th December 2024 where all the parties were heard at length. The Respondent No. 1, BEST Undertaking has filed its reply dated 18th November 2024. Its submission and arguments are stated as below: -


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History of the case:

- a) The Original electric connection (A/c No.797-307-001) was in the name of Sukhai Rambharose Vishwakarma prior to the year 2014. The Respondent No.2 (Smt. Jamunadevi Lalchand Vishwakarma, the daughter of Sukhai had applied for change of name on 28/08/2014 on the strength of the following documents.
1. Death Certificate dated 27.03.2012 of Kewala Devi Vishwakarma (wife of Sukhai and mother of Jamunadevi).
 2. Irrevocable Power of Attorney given by Sukhai Rambharose Vishwakarma dated 23.12.2013 on Rs.500/- Stamp Paper of Mr. Sukhai Rambharose Vishwakarma for the possession and looking after and enjoying the said room premises. He was also permitted to sign all documents of development scheme like SRA/ MHADA scheme etc.
 3. Affidavit indicating owner dated 23.12.2013.
 4. Ration Card (No. KA-408439 dated 24.03.2014) of Sukhai Rambharose Vishwakarma dtd.23.12.2013 indicating three persons (Sukhai: Self, Kewala Devi: Wife and Jamunadevi: Daughter).
 5. NOC letter from Sukhai Vishwakarma dtd.28.08.2014 for transfer of electricity Connection.
 6. Aadhaar Card (No.8268 1526 5345) of Jamunadevi.
 7. Election Voter Identity Card of Jamunadevi.

After scrutinising the documents and payment of statutory charges, the change of name was implemented as below:


Table 1:

Change of Name			Date of Change of Name	New Consumer No.	Remarks
From	Old Consumer No.	To			
Sukhai Rambharose Vishwakarma	797-307-001	Jamunadevi Lalchand Vishwakarma	20-11-2014	797-307-038	Jamunadevi is the daughter of Sukhai Vishwakarma
Jamunadevi Lalchand Vishwakarma	797-307-038	Pappulal S. Vishwakarma	04-02-2024	797-307-178	Pappulal S. Vishwakarma is the cousin brother of Jamunadevi Vishwakarma


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- b) There was an objection for the first change of name from the Appellant; Pappulal Vishwakarma; however it was not considered at that time on the strength of documentary evidence submitted by Smt. Jamunadevi.
- c) The Appellant Pappulal Vishwakarma applied for First Appeal against this change of name before the Respondent vide letter dated 13.07.2017. The hearing was conducted on 02.08.2017. The First Appellate Officer of BEST Undertaking issued an order on 09.08.2017, and it was informed to Pappulal Vishwakarma that he may submit a fresh application for change of name.
- d) On 10.08.2017, Shri. Pappulal S. Vishwakarma applied for change of name and paid the required charges vide Receipt / Requisition No.3444647. However, the said application was rejected on 01.09.2017 mentioning the reason as “*There is an objection /dispute raised by your landlord / any other person*”.
- e) **After a long period of 6 years**, the Appellant Pappulal Vishwakarma resubmitted an application for change of name with the following documents on 18.09.2023 along with an objection / complaint letter against Smt. Jamunadevi Vishwakarma.
- i. Affidavit of Mutual Understanding of Sukhai Vishwakarma dated 30.01.2006, declaring that Shivpati Vishwakarma (middle brother) had invested the total amount for purchase in his name, and that the other two brothers had no legal right on the said shop. This property was maintained by Pappulal Vishwakarma. Sukhai Rambharose Vishwakarma also stated his wish that he would be happy if a share of one third of the said shop was given to his daughter Jamunadevi Vishwakarma. *[Note: It is not clear why the Appellant did not submit this document either in 2014 or in 2017 when he first objected to the change of name.]*
- ii. Irrevocable power of Attorney dated 05.05.2015 from Sukhai Vishwakarma to Pappulal Vishwakarma & his wife Renudevi Pappulal Vishwakarma for looking after and enjoying the said room premises. He was also permitted to sign all documents of development scheme like SRA/ MHADA scheme etc. *[Note: Smt. Jamunadevi had also submitted a similar "irrevocable power of attorney" in her father's favour dated 23.12.2013.]*


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- iii. Copy of Police complaint filed by Sukhai R. Vishwakarma dated 12.05.2015 against grandson threatening for the property.
 - iv. **City Civil Court S.C. Suit No.427 of 2016 of Pappulal Vishwakarma V/s Jamunadevi Lalchand Vishwakarma for peaceful possession of the said disputed property.**
 - v. Rationing Officer 17-A, Order dtd. 27.08.2019, Ration Card No. 408439
 - vi. (Alleged) Forged documents Ration Card No. 408439 of Jamunadevi Vishwakarma
 - vii. Copy of Aadhaar Card on this address
 - viii. Copy of Election Card on this address and various misc. documents.
- f) Further, based on BEST's Procedure Order No. 236 dated 03.05.2017, vide letter dated 18.10.2023, it was informed to both the parties i.e. Shri. Pappulal S. Vishwakarma & Smt. Jamunadevi L. Vishwakarma to remain present for a scheduled hearing on 26.10.2023 at 03.00 pm at Customer Care (G/North), Dadar office. The said hearing was cancelled due to unavoidable reasons. Later the said hearing was conducted on 16.01.2024 when only Shri. Pappulal S. Vishwakarma was present, while Smt. Jamunadevi was absent. When telephonically contacted to Smt. Jamunadevi L. Vishwakarma, it was learnt that she was at her native place. Sufficient time was given to Smt. Jamunadevi Vishwakarma to submit her contention, but no submission was submitted by her. In this situation, an (ex-parte) Order was passed by BEST AAO CCGN on 21.03.2024 informing both the parties that status quo would be maintained until submission of judgment/ Order of the Competent Authority. Considering the documents on record, the above-mentioned case was closed, and the name was changed to Shri Pappulal S. Vishwakarma. [Note: BEST has not explained why it gave more weightage to the documents of Shri. Pappulal as against those of Smt. Jamunadevi.] It was also informed in the said order that in case of disagreement with the said order, you may register your complaint at Consumer Grievance Redressal Forum in Schedule A-Form. Hence, as per AAO CCGN Order dated 21.03.2024, change of name was carried out in the name of Shri Pappulal S. Vishwakarma. The above Order was implemented


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




on 02.04.2024 and an electric bill in the name of Shri Pappulal Vishwakarma was issued.

- g) The Respondent No. 2, Jamunadevi Vishwakarma filed a grievance application in the Forum on 08/07/2024. The Forum by its order allowed the grievance and directed to revert the name to Jamunadevi Lalchand Vishwakarma.
- h) As per BEST Undertaking's Terms & Conditions of Supply & Schedule of Charges under Section 2.9, it is the responsibility of the applicant to submit correct & genuine documents, & the onus of its genuineness lies on the applicant only. In case, a complainant suspects that the documents are forged, he may lodge a complaint with the competent authority and obtain an appropriate order for the same.
- i) This is a civil property dispute which should be decided by the Competent Civil Court. In view of all above, it is humbly requested to grant appropriate order/ directives in this matter.

4. The Appellant (Pappulal Shivpati Vishwakarma)'s submissions and arguments are stated as below: -


- (i) There is a 5 days' delay in filing this representation for want of proper papers, the same be condoned. [*Note: the delay is condoned.*]
- (ii) The said property (Room No. C-81, Social Nagar, Dharavi Laxmi Baug, M. G. Road, Dharavi, Mumbai) was owned and possessed by all the three brothers jointly, and it has never been divided and distributed among them. The relationship among his uncles, his father and cousin sister was always cordial.
- (iii) The Appellant was running the said shop smoothly along with taking care of his uncles. On 30.01.2006, Late Shri Jairam Vishwakarma (eldest brother) and Late Sukhai Vishwakarma (youngest brother) signed a declaration that the above-mentioned property was built and maintained by their middle brother Mr. Shivpati Vishwakarma, and they did not have any legal right on the said shop. The said shop belongs to Pappulal Shivpati Vishwakarma, and he will have all legal rights on the said shop. Shri Sukhai Rambharose Vishwakarma also wished that he would be



(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



happy if one-third share of the said shop is given to his daughter. A copy of the mutual understanding dated 30.01.2006 is kept on record.

- (iv) Sukhai Rambharose Vishwakarma appointed the Appellant (his nephew) as his Power of Attorney holder, and transferred his 1/3rd share of the said shop/ room to the Appellant's name vide sale agreement dated 06.05.2015, in view of the joint property, and for taking care of his real uncle Sukhai Vishwakarma. The Appellant became the owner of the above-mentioned room/ shop, and has full rights on the above mentioned room. The documents are kept on record.
- (v) Jamunadevi's son started harassing and torturing his grandfather (Sukhai), denying him basic necessities like food and healthcare on a daily basis. Sukhai started staying with the Appellant and made a written complaint and N.C.R no. 1723/2015 against his grandson on 12.05.2015. The same is also kept on record.
- (vi) Jamunadevi Vishwakarma had prepared a bogus Ration Card and fake birth certificate with the help of forged documents to show her residence at the said premises. The Appellant made a written complaint before the Rationing authority and Dharavi Police Station for the forged ration card and birth certificate. Jamunadevi Vishwakarma was actually permanently staying at her native place at Village: Bhatauta Tulsipatti, Post: Karaundikala, Taluka Kadipur, District: Sultanpur, Uttar Pradesh. Jamunadevi Vishwakarma also had a Ration card at her native place. Jamunadevi made the forged Ration card only for grabbing the abovementioned Room / Shop. A copy of the written complaint to the rationing authority, Dharavi police station, and a copy of the ration card of Jamunadevi Vishwakarma at her native place are kept on record.
- (vii) On 12.09.2015, the Appellant sent a legal notice to the Defendants for handing over and to deliver vacant and peaceful possession of the said Room / Shop to the Appellant.
- (viii) Jamunadevi with her son is planning to grab the said Room / Shop with the help of forged documents, and they want to sell the said room without the consent of the Appellant, and run away to her native place.



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- (ix) The Appellant possesses all the property related documents e.g. Ration Card, Electricity Bill, Voting Card, BMC Gumasta License, Agreements, Power of Attorney, Consent Letter.
- (x) On the strength of these genuine documents listed in Para 3 (g), the Appellant applied for change of name on 10.08.2017 and the BEST Undertaking has rightly made the change in name as shown in Table 1.
- (xi) The Respondent No. 2 (Jamunadevi Vishwakarma) approached the Forum for her alleged grievance of change of name. The Forum by its order dated 23.08.2024 allowed the grievance. The Forum failed to understand the basic issue that the said property is a joint property. The Forum has not followed the rules of natural justice and has passed the judgment without going through the documents filed by the Appellant.
- (xii) In view of the above, The Appellant prays that the order of the Forum be set aside and to direct the BEST Undertaking to keep the name of the Appellant on the electric bill.

5. The Respondent No. 2 submitted their reply on 20th December 2024. Their submission and arguments are stated as below: -


- (i) Lalchand Raghudev Vishwakarma is the Power of attorney holder/representative of the Respondent No. 2, Jamunadevi Lalchand Vishwakarma, residing at Room No.C-81, Social Nagar, Opp. Mariamma Mandir, Below Tata Power Line, Laxmi Baug, M.G. Road, Dharavi, Mumbai-400017.
- (ii) The Original owner/Occupier of Shop Premises (ground floor) and mezzanine floor was her father, late Sukhai Rambharose Vishwakarma who died on 31/05/2020. The electric connection (No.797-307-001) was in the name of the said deceased from 27.01.1996.
- (iii) The mother of the Respondent No.2 late Kewla Devi also died on 24.03.2012. The said shop premises consist of Ground + Mezzanine Floor. Respondent No.2 Jamunadevi is the only legal heir, being daughter of both these deceased, and she has been residing with her husband and running a business in the said shop. She


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



made an application for change of name on 28.08.2014 from her late father Sukhai Vishwakarma with relevant documents. The Competent Authority of BEST transferred the electricity bill in her name and allotted a New Consumer No.797-307-038 on 20.11.2014 as shown in Table 1. The said connection was in her name till April 2024.

- (iv) The Respondent No. 1 changed her name to that of the Appellant on 02.04.2024, and gave a new account No.797-307-178 **without intimation or consent of the Respondent No.2.**
- (v) The Respondent No. 1 BEST Undertaking has considered the main document as the Ration Card for transferring the electric connection in a Commercial Premises. How is this possible, being a commercial property?
- (xi) The Appellant, the nephew of late Sukhai Vishwakarma, is residing at Dombivali, Maharashtra. He had committed a theft in the said premise and taken away jewellery, cash and Ration Card, and he returned the said Ration card No. KA-408439 on 28.07.2017.
- (xii) The deceased Sukhai Vishwakarma made a complaint on 03.06.2015 against the Appellant at Dharavi Police Station due to harassment and threats.
- (xiii) The sale deed, Power of Attorney and Affidavit dated 06/05/2015 produced by the Appellant Pappulal Shivpati Vishwakarma are all bogus documents. Even the Notary Seal is not proper as per Notary Rules, 1956, Rule-12.
- (xiv) Suit No.427 of 2016 is pending in C.R. No.3, filed by the Present Appellant against the Respondent No.2. Para No.24 in the Plaint says that “the Plaintiff values the suit at Rs. 1,20,000/- under section 6 (iv)(j) of Bombay court fees Act, and paid the court fee Rs. 6830/- thereon accordingly”. In this suit, the Appellant has not taken out Notice of Motion for interim relief, and there is no such order in favour of the Appellant. Therefore, it appears that the Appellant has filed the above suit hopelessly.
- (xv) Receipt of Survey 2024 under **Dharavi Redevelopment Project**, dated 03/07/2024, Receipt No.022841, issued by Sub- Social Development Officer in the name of the Respondent No.2 Jamunadevi Vishwakarma is kept on record.


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Secretary
Electricity Ombudsman Mumbai



(xvi) The Respondent No.2 prays that to dismiss the Application for Condonation of delay, as well as the Appeal filed by the Appellant with compensatory cost.


Analysis & Ruling

6. Heard the parties and perused the documents on record. Prima facie this seems to be a property dispute between family members. The Forum by its order directed the Respondent No. 1 BEST to revert the name from Mr. Pappulal Shivpati Vishwakarma to Jamunadevi Lalchand Vishwakarma in respect of the disputed property.

7. The Appellant contended that he is the legal owner of the property, and that the documents submitted by Jamunadevi are fabricated and improper. The said property was owned and possessed by late Mr. Sukhai along with two other brothers Late Mr. Jairam & Mr. Shivpati Vishwakarma, who have transferred the legal rights to the Appellant, vide a mutual Understanding dated 30/01/2006. He has submitted a copy of Power of Attorney from late Mr. Sukhai dated 05/05/2015. The Appellant has requested to set aside the order of the Forum and to direct BEST to keep the name of the Appellant on the electric bill.

8. The Respondent No. 2 contended that the original owner/occupier of the said Shop Premises (ground floor) and mezzanine floor was Sukhai Rambharose Vishwakarma i.e., father of the Respondent No.2. The electric connection (No.797-307-001) was in his name. She is entitled to change the name as per inheritance laws as both her parents are dead.

9. We find that there are allegations and counter allegations by both the parties, multiple arguments on various points, and contradictory documents submitted by both the parties to justify their rival claims in the said property. It is beyond the jurisdiction of this authority to determine the validity or legality of these documents. The parties are at liberty to adjudicate their respective rights in the said property by approaching the competent Civil Court. This is clearly a civil dispute. The Appellant filed a civil case against Jamunadevi Lalchand Vishwakarma which is registered (S.C. Suit No.427 of 2016) in the Court of Civil Court,


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Secretary
Electricity Ombudsman Mumbai



Mumbai for peaceful possession of the said disputed property. The Regulation 19.22 of CGRF & EO Regulations 2020 provides as below :-

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

(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;”

The Appellant’s eviction suits against the Respondent No. 2 is pending adjudication before the Civil Court, Mumbai.

The Regulation 19.25 of CGRF & EO Regulations 2020 provides that:


“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.”

The Maharashtra Electricity Regulatory Commission issued a Practice Direction dated 26.12.2023 in its Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 which is reproduced as below:

“Practice Direction: a.....


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Electricity Ombudsman Mumbai




b. Distribution Licensee shall add following statement in electricity bill:

“This bill for power supply cannot be treated or utilized as proof that the premise for which the power supply has been granted is an authorized structure nor would the issuance of the bill amount to proof of ownership of the premises.”

We find that when a Civil Case is pending from 2016, and there are contradictory documents on record, the Respondent No. 1 BEST was not supposed to entertain the change of name in the name of Pappulal S. Vishwakarma. Hence, the Forum’s order maintaining the previous Status quo as per the original connection is proper. Electricity supply continues to be provided at the disputed premises, and neither party suffers on that count by the Forum's order. Due to the reasons recorded above, we cannot adjudicate this case at this juncture, it being not maintainable.

10. The Representation of the Appellant is rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


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Secretary
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