

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 128 OF 2024

In the matter of Change of Name

Parvathi Murugan Thevar..... Appellant

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Thane 1.....Respondent No.1

Madasamy Thevar..... Respondent No. 2

Appearances:

Appellant : 1. Parvathi Thevar
2. Jayashri M. Shah, Representative

Respondent No. 1: 1. Sandip Jadhav, Addl. Exe. Engineer, Kisannagar S/dn.
2. Aditya A. Jadhav, Jr. Engineer

Respondent No. 2 : Madaswamy S. Thevar


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

Date of hearing: 25th September 2024 &
14th November 2024

Date of Order: 25th November 2024

ORDER

This Representation was filed on 26th July 2024 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 8th May 2024 in Case No. 157 of 2024 passed by the Consumer Grievance Redressal Forum, Bhandup (the Forum). The Forum by its order dismissed the grievance application of the Appellant, observing that the cause of action was for the period from 2014 to 2016. The


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Appellant approached the Forum on 11/03/2024 after a lapse of about 8 years, hence the grievance is time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/ 2020.


2. Aggrieved by the order of the Forum, the Appellant has filed this representation. A physical hearing was held on 25/09/2024 and the second e-hearing was held on 14/11/2024 through video conferencing. The parties were heard at length. The Respondent filed its reply dated 3/09/2024. The Respondent's submissions and arguments are as below: *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

- (i) The Appellant, Parvati Thevar entered into a Pagadi- Rental Agreement with one Smt. Medhavati Rama Suvarna for Room No. 15, Pandurang Nivas on 28th March 2011. (The Appellant had also taken No Objection Certificate from the original owner Smt. Bharati Vighate of Pandurang Nivas.) The electric connection (Consumer No.000010025265) was also transferred to her name subsequently in the year 2011. The details of the connection are as below:

Table 1:

Consumer's Name	Consumer No. (Old)	Address	San. Load (KW)	Date of Supply	Consumer's Name after Change of Name	Purpose & Area
Medhavati Rama Suvarna (Before 2011)	000010025265	Pandurang Nivas, Room No.15, Third Floor, Padval Nagar, Thane	0.26	12/8/1986	Parvathi Murugan Thevar from the year 2011	Residential & area about 280 sq. Feet (Carpet)

- (ii) There was a change of name of this electric connection from Parvathi Murugan Thevar to Shunmuga Prabha Madasamy Thevar in the year 2012, which was again changed back in the name of Parvathi Murugan Thevar (Appellant). This connection was permanently disconnected on 15.11.2014 due to non-payment of the energy bill having outstanding dues of Rs.1647.05.
- (iii) Smt. Shunmuga Prabha Madasamy Thevar (Respondent No. 2's wife) applied for a new connection at the same premises after payment of outstanding dues, and a new electric connection was released on 09.03.2016 to Shunmuga Prabha


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Madasamy Thevar, being the occupant. The details of this connection are charted as below:

Table 2:

New Consumer Name	New Consumer No.	Address	San. Load (KW)	Date of Supply	Date of Inspections	Inspection Remarks	Purpose & Load
Shunmuga Prabha Madasamy Thevar	000011525032	Pandurang Niwas, Room No.15, Third Floor, Padval Nagar, Thane	0.42	15/04/2016	26/09/2023 & 16/04/2024	Shunmuga Prabha Thevar is residing in the said premises	Residential with Fans-2, Tube-2, Fridge-1, CFL-2, Exhaust Fan-1

- (iv) The Appellant filed a complaint with this office on 15.04.2016 against the said new electric connection in the name of Shunmuga Prabha Madasamy Thevar. The Appellant claimed that she had purchased the said premises from Mrs. Medhavati Rama Suvarna on Pagdi Sytsem . They were about to occupy this room; however her brother-in-law, Madasamy Thevar (Respondent No. 2) requested them to allow him to stay in the said premises for 2-3 months till he finds himself new premises. But Madasamy Thevar occupied this room and never vacated this premises till date.
- (v) The Appellant submitted an RTI application to MSEDCL on 18/07/2016 for verification of documents that were submitted with the application for the new connection mentioned in Table 2. The Respondent No. 1 has given all relevant information in respect of this RTI application vide its letter dated 11/08/2016.
- (vi) The Appellant by her letter dated 29/08/2016 then requested this office to disconnect the electricity connection of Cons. No.000011525032. However, Shunmuga Prabha Madasamy Thevar was found to be the occupant in this premises and was paying the electricity bills regularly, hence this connection could not be disconnected.
- (vii) The Appellant submitted RTI Application to the Energy Department of Government of Maharashtra on 13.08.2023 for the same information. The required information was provided by this office vide letter no. 09/10/2023.
- (viii) The Appellant filed a grievance application in the Forum on 11.03.2024. The Forum by its order dated 08/05/2024 has dismissed the grievance application of the


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Appellant, observing that the cause of action was time barred as per Regulation 6.6/7.8 of CGRF & EO Regulations 2006/2020.

- (ix) The Respondent No. 1 MSEDCL also issued a letter to Shunmugha Thevar for submission of documentary evidence in support of their claim regarding the ownership of this premises. The Respondent No. 2 Madasamy Thevar and Shunmugha Thevar have submitted documents of the court case to this office. **It reveals that the Appellant filed a civil suit on 28/03/2016 against Madasamy Thevar in Civil Court Thane. (R.C.S. 329/2016). The Hon'ble Court, vide order No. R.C.S./329/2016 dated 27/01/2023 has dismissed this suit.** The order was as follow:


“Suit is dismissed for want of prosecution.”

- (x) The Respondent No. 1 has inspected the disputed premises on 26.09.2023 & 16.04.2024, and it was found that Shunmuga Prabha Madasamy Thevar is the occupant in this premises.
- (xi) In view of the above, the Respondent prays that the representation of the Appellant be rejected.

3. The Appellant's submissions and arguments are stated as below: -

- (i) The Appellant hails from a middle-class background and has 5 members in her family. The occupation of the Appellant's husband is such that most of the time the consumer's husband is out of the country, due to which all family responsibilities are handled by the Appellant.
- (ii) The Appellant is the absolute owner of Room No. 15, 3rd Floor, Pandurang Niwas, Wagle Estate, Thane which was purchased by the Appellant from Mrs. Medhavati Rama Suvarna by virtue of a **Pagdi Rental Agreement dated 30.03.2011** executed and registered between Parvathi Murugan Thevar (Appellant) and Mrs. Medhavati Rama Suvarna. *[Note: The Pagdi Rental Agreement was notarised and not registered.]*


The Appellant had applied for change of name of the electricity connection (Consumer No. 000010025265) and the Respondent transferred the connection


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to her name in the year 2011. (A bill copy of December 2011 indicating the name of the Appellant is kept on record.)

- (iii) During this period, the Respondent No. 2, Madasamy Thevar, brother-in-law of the Appellant was also residing with the Appellant's family. When the Appellant purchased the said premises, at the same time, her brother-in-law got married. Hence her brother-in-law requested the Appellant to allow him and his wife Shunmuga to reside in the said premises for 2-3 months, and further assured the Appellant that they would vacate the said premises on finding a new premise for themselves. The Appellant allowed her brother-in-law and his wife to reside in the said premises. The Appellant is currently residing at Pandurang Niwas, **Room No.12**, Third Floor, Padval Nagar, Thane from 2011 onwards.
- (iv) Somewhere around 2012, the Appellant found out that the electricity meter (Cons. No. 000010025265) of the said premises was in the name of Shunmuga Prabha Madasamy Thevar (wife of brother-in-law). When the Appellant questioned the brother-in-law and his wife about it, they did not have any answer.
- (v) Hence, the Appellant filed a Right to Information (RTI) Application at Kisan Nagar, Sub-dn. and came to know that Madaswamy Thevar had submitted forged, bogus documents before Kisan Nagar Sub-dn., and had fraudulently transferred the said electricity meter on his wife's name. He had even forged the signatures of the Appellant. The copies of documents obtained by the Appellant under the RTI Act and the copy of the Pan Card of the Appellant bearing the original signature of the Appellant are kept on record.
- (vi) The Appellant filed a Police Complaint against Mr. Madasamy Thevar on 24.11.2012 at Shri Nagar Police Station, Thane where Mr. Madasamy Thevar admitted to his unlawful behaviour and assured the Appellant that he would transfer the said electricity meter back on the name of the Appellant. Subsequently, the electric connection was transferred back in the name of the Appellant in the year 2012. The Respondent No. 2 was paying the electric bill as he was consuming the electricity.


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- (vii) In the year 2016, the Appellant discovered that Mrs. Shunmuga Prabha Madasamy Thevar i.e wife of Madasamy Thevar had obtained a new electricity connection (Cons. No. 000011525032) on the said premises. The Appellant filed an RTI Application in Kisan Nagar Sub-dn., and it was revealed that Mrs. Shunmuga and Mr. Madasamy Thevar had submitted a forged unregistered/ un-notarised Agreement for sale of the said premises, forging the signatures of the original pagadi owner namely Mrs. Bharati Vighate. A copy of the forged Agreement is also kept on record.
- (viii) Since the year 2016, the Appellant has been doing all the necessary paperwork at the concerned MSEDCL office, Kisan Nagar Sub-dn., but the concerned office is not entertaining the genuine complaint of the Appellant. Copies of complaint letters 18.03.2016, 20.04.2016, 30.08.2016, 11.02.2020 and 23.02.2024 are kept on record. The Respondent did not take any action on the Appellant's complaints. Hence the Appellant filed a grievance application on 11/03/2024 before the Forum. The Forum by its order dated 08/05/2024 dismissed the grievance application of the Appellant. The Forum did not understand that the cause of action was continuous in nature. Even after submitting valid documents related to forgery of the Consumer's signatures and a pile of correspondence between the consumer and MSEDCL Authorities, the Forum did not consider all the facts and circumstances.
- (ix) The Appellant referred the following orders in support of their submissions.
- (a) the order of the Electricity Ombudsman Bengaluru (Case G-288) in Case of Basavraj Cotton Pressing V/s Asst. Executive Engineer, HESCOM where the case was remanded back to the Forum after condonation of delay.
- (b) the order of the Electricity Ombudsman Punjab in Case of Smt. Jaswinder Kaur V/s Addl. Supdt. Engineer Patiala regarding delay in filing the case.
- (c) the order of the Forum in Grievance No. N-GS-425-2021 of Shri Dayashankar H. Pasi V/s BEST Undertaking regarding natural justice.
- (x) The Appellant filed a Civil Suit on 28/03/2016 against Madasamy Thevar in Civil Court Thane. (R.C.S. 329/2016). The Civil Suit was dismissed due to a technical reason as the Advocate failed to be present at the time of hearing. The


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Appellant filed an application for condonation of delay and for restoration of Civil Suit No. 329/2016. The Court by its order dated 25/10/2023 has allowed it and the delay is condoned for restoration of the regular Civil Suit No. 329/2016.

- (xi) In view of the above, the Appellant prays that the Respondent No. 1 be directed
- (i) to disconnect Electric Connection (Cons. No. 000011525032) of the said premises in the name of Shunmuga Prabha Madasamy Thevar which is taken by furnishing false and forged documents, and to transfer the said electric connection in the Appellant's name.
 - (ii) to ensure that appropriate disciplinary measures are taken against the officers responsible for neglecting document verification and allowing the issuance of a new meter despite the presence of a pre-existing one.

4. The Respondent No. 2 filed a reply on 23/08/2024. His submissions and arguments are as below: -

- (i) The Respondent No. 2 is staying at Pandurang Niwas, Room No.15, Third Floor, Padval Nagar, Thane from 04/04/2009 on rental basis. The said room was purchased under Pagdi Rental System in the year 2011. After that the Respondent No.2 with his wife is staying in the said room till date.
- (ii) Respondent No. 2 claimed that the Appellant has never occupied the said premises from the date of purchase in the year 2011 under Pagdi Rental System. The Respondent No. 2 had paid the entire sum of consideration towards purchase of the said Room No. 15 to his eldest brother (the Appellant's husband) for purchasing in the name of his own wife, Shunmuga Prabha Madasamy Thevar. However, the eldest brother purchased the same in his own wife's name. The Respondent No. 2 is the established occupier in the said premises from the date of purchase of this property. The Respondent No. 2 is paying rent of Rs. 300/- per month to the Pandurang Nivas Society Committee regularly.
- (iii) The Respondent No. 2 has submitted the following identity documents (of himself and his wife) showing their address of Pandurang Niwas, Room No.15 as follows:
 - (i) Identity Cards of Election Commission of India



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- (ii) Aadhaar Cards
- (iii) Ration Cards
- (iv) Electricity Bill in his wife's name from 15/04/2016.
- (iv) This is a family issue and will be resolved at family level.
- (v) The Respondent No. 2 prays that the representation of the Appellant be rejected.


5. During the hearing the Respondent No. 1, MSEDCL was directed to submit their legal views on the subject matter. The Respondent No. 1 by its email dated 10/11/2024 has submitted its legal view which is summarised as below:

- (i) The residential premises Room No. 15 of Pandurang Niwas was originally leased by the landlady Smt. Bharti Vighate to Smt. Medhavati Rama Survarna on a Pagadi basis. However, no Lease Deed was registered. The said premises came to be sublet by Smt. Medhavati Rama Survarna to Parvati Murgan Thevar vide Permanent Rent Agreement (Pagadi Agreement) on 30th March 2011. However, this agreement is also not registered and is only a notarized document executed on non-judicial stamp paper of Rs. 100/-. Thus, both aforementioned agreements are not Registered Deeds though mandated under Section 17 of the Registration Act, 1908.
- (ii) As certified by the Chairman of the said Pandurang Niwas Building vide their letter dated 01.03.2011, Mr. Madasamy has been residing in that Room No. 15 since April 2009 and has been paying its maintenance charges. A law point arises here that when the premises was sublet to Smt. Parvati Murgan from the original lessee vide Agreement only in 30.03.2011, how can Mr. Madasamy legally occupy that premises even before it.
- (iii) The copy of electricity bills placed on record reveal that the electricity connection bearing consumer No. 000010025265 was in the name of Ram K. Suvarna till May 2011 and later on changed in the name of Smt. Parvati M. Thevar from June 2011. This connection came to be permanently disconnected on 15.11.2014 due to nonpayment of energy bill with arrears of Rs. 1647.05


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- (iv) A new electricity connection (consumer No. 000011525032) came to be released by the concerned office in the name of Shunamugha Prabha Madasamy Thevar to the said premises on 09.03.2016. *[Note: It seems that the occupant Mr. Madasamy deliberately did not pay his dues of only Rs.1647/- and manipulated the system to get the old connection (in the name of the Appellant) permanently disconnected, and thereafter managed to get a new connection in his own wife's name. If his only intention was to enjoy electricity supply, he could have easily continued with the previous connection. But as the occupant, it seems that his true intention was to get his wife's name on the connection.]*
- (v) While disposing of the grievance, the Forum has categorically observed that the Appellant, Mrs. Parvati Murugan Thevar already admitted that she does not reside at that said premises i.e. Room No. 15 of Pandurang Niwas, and has allowed her brother-in-law Mr. Madasamy Thevar and his wife Mrs. Shunumugha Madasamy to occupy the said premises. The Forum observed that the parties to the grievance are the family members and there might be a property dispute between them. Though the Appellant stated that a Police case was filed against Mr. Madasamy Thevar on 24.11.2012, no documentary evidence of any action taken against him under IPC for forgery or fabrication of documents was found. The Forum has also taken the note of the civil dispute pending amongst the parties, and concluded that it cannot be said that the Respondent (MSEDCL) acted in an unfair manner. The Forum rejected the grievance on the ground of limitation and want of jurisdiction to decide the criminal as well as civil disputes amongst the parties.
- (vi) The spot inspection report dated 16.04.2024 submitted by the concerned Asstt. Engr., Kisan Nagar has clearly stated that Mrs. Shunamuga Prabha Thevar has been residing in the said premises i.e. Room No. 15 of Pandurang Niwas. The Appellant Mrs. Parvati Thevar herself has admitted the occupancy of Mrs. Shunamuga Prabha Thevar. Thus, Mrs. Shunamuga


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Prabha Thevar is the occupant of the said premises and is in settled possession.

- (vii) A universal obligation/ duty has been casted under Sec. 43 of the Electricity Act, 2003, upon the Distribution Licensee to supply electricity on an application made by an owner or occupier of any premises within one month. Further, Regulation 5 of MERC Electricity Supply Code & SOP Regulations 2021 has prescribed the procedure and all the requisites including the documents necessary for releasing the new electricity connection to the applicant.
- (viii) In this regard, the propositions of law as settled by Hon'ble Apex Court in the landmark judgment of Dilip (dead) through LRS V/s. Satish & Ors [2022 SC online SC 810] as well as the recent judgment of Hon'ble Bombay High Court, Nagpur Bench in the case of M/s. Singh Automobiles V/s. Principal Secretary Energy & Ors. dated 06.11.2023 in W.P. No. 2576 of 2023 may be referred & relied upon, wherein it has been clearly ruled that an application for supply of a new electricity connection shall be considered by MSEDCL in accordance with the Regulations of 2021 without insisting on an NOC from the landlord as a pre-condition.
- (ix) Also, the judgment of Full Bench of Hon'ble Calcutta High Court in 'Abhimanyu Mazumdar Vs. the Superintendent Engineer & another, reported at AIR 2011 cal.64 can be referred, wherein the Hon'ble Full Bench held that in order to get an electricity connection, a trespasser must be in actual physical possession of the property over a sufficiently long period, which must be to the knowledge (either express or implied) of the owner or without any attempt at concealment by the trespasser. The process of dispossession of the true owner by the trespasser must be complete and final and must be acquiesced to by the true owner. The said yardsticks were borrowed by the Full Bench while considering the concept of “settled possession” in the context of the right to dispossess a trespasser.
- (x) Hence, there may be no legal and valid ground to disconnect the said electricity supply, unless the existing consumer Mrs. Shunamugha Thevar


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has been dispossessed of the subject premises by following the due procedure of law by virtue of an order passed by a competent court and subject to the outcome of pending litigations.

Analysis and Ruling

6. Heard both the parties and perused the documents on record. This seems to be a civil dispute between the Appellant and her brother-in-law. While the Appellant claims that she allowed the Respondent No. 2 to stay in the premises temporarily for a few months, the Respondent No. 2 claims that he paid the pagadi amount to his brother, and has been residing at the premises continuously. Whether his occupancy is legal or otherwise, the fact of physical occupancy / settled possession of Respondent No. 2 cannot be disputed.

The Appellant raised the issue during the hearing as to how MSEDCL could transfer the name on the connection or give a new connection without the NOC of the landlord or original pagadi tenant, the Appellant. In reply MSEDCL has quoted several judicial judgements which protect the rights of an occupant to get an electricity connection even without the NOC of the landlord. In this case, the Respondent No. 2 did not apply for change of name (from the Appellant to his wife's name), but rather for a new connection. Though the connection was earlier in the Appellant's name, she did not keep a track of pending electricity bills and let the unpaid dues of Rs.1647/- accumulate. Due to this negligence, the Respondent No. 2 got an opportunity to get the connection made PD, and to thus apply for a fresh connection in his own wife's name.

Be that as it may, it is established that the Appellant- Parvathi Thevar is not physically residing at Room No. 15, Pandurang Nivas, but the Respondent No. 2 Madasamy Thevar (Brother-in-Law) and his family are residing there at least from 2011 onwards. There was an earlier electric connection (Cons. No. 000010025265) in the name of the Appellant from 2011 to 15/11/2014 (except some period of 2012). This connection was permanently disconnected on 15/11/2014 for a very meagre amount of Rs. 1647.05 as recorded in Table 1. The electric bills were paid by the Respondent No. 2. We feel that this was a deliberate and manipulative


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move from the Respondent No. 2 for taking the new connection in his wife's name. The new connection (Cons. No. 000011525032) was taken in the name of Shunmuga Prabha Madasamy Thevar on the strength of her occupancy. The details of this connection are tabulated in Table 2. Taking into consideration various court judgements protecting the rights of an occupant in settled possession, we feel that in this case the new connection was legally correctly given to the Respondent No. 2 as the occupant at least on technical and legal grounds, if not on moral grounds.

7. The Practice Direction dated 26.12.2023 issued by the Commission in Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 (Supply Code & SOP Regulations 2021) is reproduced below:

“Practice Direction:


a.

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.**”*

8. We find that there are allegations and counter allegations between the Appellant and Respondent no. 2. Multiple documents have been submitted by the Appellant and the Respondent No. 2 to justify their rival claims in the said pagdi rental property. The parties are at liberty to adjudicate their respective rights by approaching the competent Civil Court. This is clearly a civil dispute. The Appellant has already filed a Civil Suit on 28/03/2016 against Madasamy Thevar in Civil Court Thane (R.C.S. 329/2016). The Civil Suit was initially dismissed due to a technical reason as the Advocate failed to be present at the time of hearing. The Appellant filed an application for condonation of delay and **for restoration of Regular Civil Suit No. 329/2016**. The Court by its order dated 25/10/2023 has condoned the delay and allowed to restore the Regular Suit No. 329/2016. The operative part is produced below:

1. Application is hereby allowed.


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2. *Delay in filing restoration application for restoration of regular Civil Suit No. 329/2016 is hereby condoned.*
3. *Appellant to pay Cost of Rs. 500/- to Dist. Legal Service Authority, Thane.*

9. 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 has filed the abovementioned Civil Suit No. 329/2016 against Madasamy Thevar for declaration, possession and injunction which is still pending in the Civil Court, and hence as per Regulation 19.22, the grievance is not maintainable with this authority.

10. 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:”*

11. In this case, no damage or inconvenience (in terms of lack of access to electricity) is caused to the Appellant, as she is staying independently in another Room No. 12 of the same building.



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12. We find that the Forum's order is justified and reasonable. Due to the reasons recorded above, we cannot adjudicate this case at this juncture, it being not maintainable. This is a civil dispute, and it has to be finalized by the appropriate Civil Court. The Appellant has the liberty to follow up with the appropriate authority to establish their claim of Pagadi Rental ownership of the said Room No 15 of Pandurang Nivas.

13. 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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