

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
C/o MADHYA GUJARAT VIJ CO LIMITED
CORPORATE OFFICE, 2ND FLOOR SP VIDYUT BHAVAN,
RACECOURSE, VADODARA 390 007**

Subject	Consumer Grievances Complaint No.MG-III-37-09.10
Complainant	Shri Dinubhai P Patel, 46, Nirman Society, Alkapuri, Vadodara – 390 007
Respondent	Shri S P Sagar of Koyali sub Division of MGVCL
Date of hearing	26.10.2009

QUORUM	NAME
Chairman	Shri S A Pota, MGVCL
Member	Shri K R Shah, MGVCL
Independent Member	Dr R C Desai, Vadodara
Convener	Shri P L Mistry, MGVCL

This complaint dated 21.10.2009 is directed against delay in effecting change of name for the existing MGVCL connection bearing consumer no. 02422/60034/4.

Today on 26.10.09, the case of the Complainant Grievance was heard before Consumer Grievance Redressal Forum wherein Shri Dinubhai Patel appeared himself as complainant whereas Shri S P Sagar, JE Koyali s/dn appeared as respondent on behalf of MGVCL before the Forum. Both the parties were heard.

The facts of the case are as follows. The complainant Shri Dinubhai Patel has contended that he had purchased the land bearing survey no. 787, block no. 718 in Sevasi village from Shri Keshavbhai Harjibhai Valand in 1992 against full payment of Rs.5,87,167.00 paid in instalments and 'Banakhat' to that effect was signed and notarized. However, since the said land was stipulated under 'Navin' and 'Avibhajya' condition, ownership document for transferring the land to Shri Dinubhai's name could not be registered before the Registrar. Shri K H Valand also signed a Power of Attorney (PoA) document on 26.9.95 in favour of Shri Dinubhai authorizing him for administration of the land and all the decisions and actions required to be taken for farming, lighting / water / drainage connections, conversion to non-agricultural category, housing development, legal actions etc. In fact, Shri Dinubhai was given full possession of the land as per the PoA. A new connection for 10 HP bearing consumer No.02466/60034/4 in the name of Shri Keshavbhai was obtained from MGVCL by Shri Dinubhai. For this purpose, the complainant Shri Dinubhai paid Rs.74480/- vide R.No. SCR0263/05122 dated 07-08-2001 against expense estimate notice No.005903 issued by MGVCL on 10.07.2001. The name / address of

Shri Dinubhai was written as 'care of' on this document to suggest that he had paid the amount. Even though, the electricity bills were issued thereafter in the name of Valand Keshavbhai H at survey No. 787, Nalanda Road, Sevasi, Vadodara Taluka, Shri Dinubhai has continued to pay these bills till date.

After the demise of Shri Keshavbhai Valand on 03.09.2009, the complainant submitted an application on 24.09.2009 to MGVCL for transfer of the aforesaid connection to his name. In support of his application, he submitted death certificate of late Shri Keshavbhai H. Valand and '*Gam Namuno No. 6 Hakk-Patruk*' No. 4042575 dated 14.09.2009 (entry no. 4919 dated 11.09.2009) issued by Dy. Mamlatdar (E-Dhara), Vadodara Rural.

By virtue of the aforesaid document, the complainant claims to be the owner of the land which belonged to Shri Keshavbhai Valand before his death. Infact this '*Hakk- Patruk*' was issued by the Dy. Mamlatdar on the basis of Will executed by Shri Keshavbhai Valand on 11.04.2002 (*Darkahast* no. 2432/IV) signed before Executive Magistrate, Vadodara. This Will reveals that Shri Keshavbhai had earlier executed a Will on 30.09.1995 by which the land belonging to Shri Keshavbhai would be owned by Shri Dinubhai after his death. But this Will was made null and void by Shri Valand by executing another Will on 11.02.2002 by which the entire land belonging to the joint family was proposed to be transferred to cousins-Vimalbhai Nagindas Valand and Arvindbhai Somabhai Valand after his death. But thereafter, Shri Keshavbhai changed his desire and at the end of the Will document executed on 11.04.2002, he mentioned that after his death the land belonging to him be given to Shri Dinubhai P Patel. The Will document of 30.09.1995 is not submitted in view of the submission of '*Hakk-Patruk*' dated 14.09.2009. Moreover, Shri Keshavbhai executed a power of attorney on 26.09.1995 by which he assigned all the powers to Shri Dilubhai P Patel without assigning any limit on validity period and scope, as per the PoA submitted to show Shri Valand's faith in Shri Dilubhai Patel.

The matter does not rest here. There is another claimant Shri Rajendra B Patel for transferring the MGVCL connection to his name by an application dated 06.10.2009. In his support, he has submitted - (1) '*Gam Namuno no. 7 & 12*' no. B8278122 dated 10.09.2009; (2) '*Gam Namuno no. 6 Hakk-Patruk*' no.4044846 dated 09.09.2009; and (3) Will executed on 22.04.2009. The aforesaid document (1) reveals that Shri Keshavbhai was a farmer for the entire land of Hector 0-68-80 Meter during 2006-09 and half of this land is shown against Shri Keshavbhai H Valand and the remainder half against smt. Kantaben, widow of Shri Chimanbhai Chhaganbhai Valand and her family. The document (2) reveals entry of Shah Keyurbhai Pravinchandra and Patel Rajendrabhai

Bhailalbhai as owners of land of Shri Keshavbhai after his death as prescribed in the aforesaid Will document (3) executed on 22.04.2009.

Shri Dinubhai Patel has already filed civil suit in the Hon'ble Court of Civil Judge, Vadodara, earlier seeking direction of the Hon'ble Court for execution of the agreement (*Banakhat*) and final order on ownership of the land sold by Shri K H Valand to Shri Dinubhai P Patel in 1992. While this would take a long time, Shri Maulik son of Shri Dinubhai Patel filed another civil suit vide SCA No.187 of 2009 on 1.4.2009 seeking an interim Stay against Shri Keshubhai H Valand and his relatives against any action by respondents regarding illegal sale or interference in the land now in the possession of Shri Dinubhai. This interim Stay still continued.

There are two *Hakk-Patraks* before this Forum -

- 1) In favour of ownership of Shri Keyurbhai P Shah and Shri Rajendrabhai B Patel issued on 09.09.2009 ; and
- 2) In favour of ownership of Shri Dinubhai P Patel, issued on 14.09.2009.

In view of the above two conflicting claims of ownership of the same land, MGVCL officers were not in a position to change the name of electrical connection in favour of the complainant. Aggrieved by the delay, the complainant has preferred to file a complaint by a letter dated 21.10.2009 before this Forum.

The complainant contended that he is the owner as per the will and the *Hakk-patrak* submitted by him and so the electrical connection in the name of Shri Keshavbhai Valani be transferred to his name. He further contended that the estimate charges for this new connection released in 2001 and all the electricity consumption bills till date are being paid by him. He had also been the caretaker of the owner and has been the owner as per the '*Banakhat*' signed in 1992 against full payment for the land and also in the possession of land as per the PoA signed in 1995.

The Respondent Shri S.P.Sagar, contended that on account of conflicting claims of ownership for the same land as revealed by the documents submitted, they are not in a position to decide the name of transferee for the MGVCL connection.

The Forum Members present at the hearing considered contention of both the parties and perused the records. There are two claims of ownership for the same land to which an agricultural connection was released by MGVCL in 2001 in the name of Shri Keshavbhai H Valand. In fact, the ownership document is one of the necessary evidence to

decide the change of name. The Forum Members understand the predicament of the MGVCL officers in deciding the real owner, when two *Hakk-Patraks*, issued in a span of a week reveal two different owners. It is not the responsibility of MGVCL to enter into ownership dispute. It appears that the complainant had paid the estimate charges for expenses while availing this new connection and has been paying the electricity bills as revealed by the concerned documents. It can not be denied that Shri Dinubhai Patel executed the *Banakhat* in 1992 for the purchase of the land on payment of full amount. It is also on record that he has been in the possession of the land of Shri K H Valand and also an administrator for all decisions and actions including electricity connection as per the PoA signed by Shri K H Valand 26.09.1995. As contended by Shri Dinubhai, he is still looking after the land and bearing all the associated expenses, while the legal proceedings for ownership are being continued in the court. Hon'ble Court has granted an interim Stay against relatives of Shri K H Valand with regard to any interference in the land premises now in the possession of Shri Dinubhai and the Stay still continues.

In view of the above discussion, the Forum members are of the opinion that it would not be improper to transfer the MGVCL connection in the name Shri Dinubhai Patel on a temporary basis till the ownership issue is thrashed out by the Hon'ble court. However, an undertaking on a Rs.100/- stamp paper must be obtained from Shri Dinubhai Patel that this transfer of connection to his name would be reviewed / altered as per the final order of the Hon'ble Court. Shri Dinubhai Patel be advised to submit to MGVCL the order of the Hon'ble Court as and when the ownership issue is decided by the Court.

ORDER

The Forum directs the Madhya Gujarat Vij Co Limited to transfer the MGVCL connection in the name Shri Dinubhai Patel on a temporary basis till the ownership issue is thrashed out by the Hon'ble court. Shri Dinubhai Patel is directed to given an undertaking on a Rs.100/- stamp paper that this transfer of connection to his name is tentative and would be reviewed / altered as per the final order of the Hon'ble Court. Shri Dinubhai Patel is further directed to submit to MGVCL the order of the Hon'ble Court as and when the ownership issue is decided by the Court.

(K.R.Shah)
Member

(Dr.R.C.Desai)
Independent Member

(S.A.Pota)
Chairman

PS :

If the complainant is not satisfied with the order of this Forum, the complainant may approach the Ombudsman, Gujarat Electricity Regulatory Commission, 1st floor, Neptune Tower, Opp : Nehru Bridge, Ahsram Road, Ahmedabad 380009 in accordance with Chapter – 5, Clause No.13 of GERC Notification No.4 of 2005.

Procedure to make representations before Ombudsman***

- 1. Representation should be in writing duly signed by the complainant with his name and address.*
- 2. Representation should be supported with affidavit.*
- 3. True copy of order of Forum and original complaint made before Forum should be attached. Enclosed documents should be certified copies of the original documents.*
- 4. The representation before Ombudsman should be submitted within 30 days from the date of order of Forum.*
- 5. Copy of representation should be submitted at the office of Ombudsman. Copy of representation should be submitted to all respondents.*
- 6. If the complainant is required to pay any amount according to the order of Forum, one-third of such amount should be deposited by complainant and proofs should be attached along with the representation.*
- 7. The matter should not be pending before the competent Forum or any other court, tribunal, arbitrator or any other authority.*
- 8. All representations should be with a sufficient cause, reasonable diligence causing the consumer prima facie loss and damages / inconvenience.*
- 9. Representation may be submitted in English or Gujarati language*

*** <http://www.gercin.org/docs/Consumer%20Grievances/Procedure/Procedure.pdf>