

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/056/2022**(Present: A. Chandrakumaran Nair)****Dated: 28th October, 2022**

Appellant : Smt. Visalam
Aswathy
Eloor East,
Udyogamandal P.O.,
Ernakulam Dist.

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kalamassery, Ernakulam Dist.

ORDER**Background of the case:**

The appellant is the consumer of the Licensee under Electrical Section Eloor. Appellant is a widowed senior citizen living alone. She is having a plot of 3 cents received as share from her parents. There is a service line drawn much earlier for the domestic connection to Sri. Prasannan, brother of the appellant, which is crossing her property. She has constructed a house and first floor of the building is completed and the service line to Sri. Prasannan is passing above this building. The Municipality has issued the plan approval without noticing the line. Now, the Municipality is not allocating the building number as the service wire is crossing above the building. The appellant is claiming that the service wire was drawn crossing her property without her consent. The appellant approached the Consumer Grievance Redressal Forum, Central Region Ernakulam and the CGRF ordered that this is sub-judice and hence, no decision is taken.

Aggrieved by the decision of the Forum, the appellant filed the appeal petition before this Authority.

Arguments of the appellant:

A service line connection to the house of Sri. Prasannan is existing, which is crossing above the house of the appellant, and thereby submitted application to shift the service wire by the appellant. Though the appellant has no need of post for the electric connection, the Section Office is directed her to bear the expenses of erecting 3 posts for diverting the line to make electric connection to the appellant and the other party Sri. Prasannan. This is because of the influence of Sri. Prasannan in the Section Office.

Service connection to Sri. Prasannan, crossing appellant's property was given without the consent of the appellant by respondent that also in her absence. When questioned, Sri. Prasannan was promised to shift the line bearing the expenses by him when it required for construction of the house of the appellant. However, he was not kept his word even after requesting him in writing several times. The Municipality is not providing with the building number on this ground.

Appellant stated that no legal procedure is there against her property or house. She has constructed the house availing loan from the bank and as such she has no financial stability to spent any amount for getting electric connection to Sri. Prasannan. Appellant requested this Authority to take a suitable favourable action.

Arguments of the respondent:

The appellant complained against a service line drawn through (line crossing above their newly constructed house) their property for providing service connection to Sri.Prasannakumar, Edakkalathu Thekke Veettil, has to be removed.

The appellant had applied on 24-05-2022 for shifting of service line passing over their premises. Subsequently this site has been inspected and prepared an estimate amounting to Rs.13,730/- and informed the petitioner for remitting the same on safety aspects. An amount of RS.354/- also has to be remitted as application and processing fee for the work in addition to the

estimate amount. But the amount has not been remitted by the appellant so far. The work can be done only after the remittance of the said amounts. 2 nos. of support posts are required for the work as per the site condition hence this estimate.

The estimate is prepared in such a way that tire service lines to be drawn adjacent to the appellant's building by erecting support posts 2 Nos. without hindrance to the adjacent property. Though another route was considered for drawing the line through nearby pocket road, access to Sri.Presannan's residence, 3 Nos. LT posts and LT stays are required which may exceed the estimate amount hence dropped.

The service connection to Sri.Presannan has already been in existence before the construction of new residential building of Smt. Visalam, it is learned that there were no issues related to consent when the service connection provided to Sri.Presannan since both are siblings. Later on, the appellant constructed the residential building for which a service connection was availed from KSEBL on construction tariff (LT 6F). If the appellant had informed the matter when the commencement of the construction of building, KSEBL could have taken adequate measures to shift the line in a suitable manner. Here the petitioner has constructed the building beneath the live line without knowledge of KSEBL. Now the line lies on the top of the building which is very dangerous situation, causing safety threat.

In this situation a notice has been served to the consumer by the Assistant Engineer, Electrical Section, Eloor directing the appellant to demolish the building under their risk and cost as per CEA regulation 2010 clause 64(3) OR the petitioner has to remit the amount for shifting the line on work deposit basis. On receipt of the notice the appellant has approached this Authority. Respondent stated that the appellant's argument is baseless and hence, may be rejected.

Analysis and findings:

The hearing of the case was conducted on 17-10-2022 in the office of the State Electricity Ombudsman, Near Gandhi Square/BTH, Ernakulam South.

The appellant Smt. Visalam along with Sri. Venugopal. E.G. were attended the hearing and Sri. Sunilkumar. P.K., Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kalamassery was attended the hearing from the respondent's side. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant has constructed a house in the property of 3 cents, which she got from her parents. The neighbour Shri. Prasannakumar G. Pillai was having a connection which is crossing her property. It is noted during the hearing that the line was drawn much earlier before the partition of the property, and hence, the line is drawn by KSEBL without any consent as the same was laying as a single property.

When this is partitioned, her share was under the service line. Without noticing the service line, the appellant constructed a house (single storey) with Municipality's plan approval. On completion, Municipality is not allocating the building number as the service wire crossing just above house. Assistant Engineer, KSEBL has issued a notice to the appellant to either demolishing the constructed building, which is done without the knowledge of KSEBL or apply for shifting the service connection. She had applied to the Licensee for shifting the service line and KSEBL has prepared an estimate for Rs.13,730/- and informed the appellant to make the payment. The estimate is prepared to shift the service wire close to the boundary of her land by inserting two posts. During the hearing, the appellant's requirement is that the service wire has to be shifted to the pocket road to avoid permanent nuisance. There is a civil case in the Sub Court about the property dispute questioning the boundary with her neighbour which is her sister only. This is no way connected with the electrical service line or connection and hence, the jurisdictional issue does not arise.

During the hearing, the appellant opined that there is a feasibility to draw the service line through the pocket road and the respondent agreed to visit the site and examine the feasibility. Accordingly, Assistant Executive Engineer has inspected the site on 20-10-2022 and found that service wire could be drawn

through pocket road by inserting two PSC poles and using ariel bundled cables to avoid safety clearance issues from the building and trees. Assistant Executive Engineer has submitted his report dated 25-10-2022. The estimated amount is Rs.14,879/-, which is to be remitted by the appellant as per Section 95 of the Kerala Electricity Supply Code 2014 "Procedure for shifting electric line or electrical plant of the licensee" states as follow:

95 (1) The owner of the land or his successor in interest who has given right of way for the construction of an existing electric line or electrical plant over, under, along, across, in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes.

95 (2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.

95 (3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.

95 (4) The application for shifting an electric line or electrical plant shall be granted only if:-

(a) the proposed shifting is technically feasible; and

(b) the owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to any other portion of his land or to any other land owned by him; or any alternate right of way along any public path way available for shifting the electric line and the electrical plant; and

"(c) the applicant shall remit the labour charges and material charges required for shifting the electric line or electric plant as estimated by the licensee as per the cost data approved by the Commission from time to time in accordance with the Regulation 33 of the Kerala Electricity Supply Code, 2014."

(5) The licensee shall shift the electric line or electrical plant if the conditions specified in sub-regulation (4) are complied with by the applicant.

Procedure as per the Section 95 is carried out by the Respondent. The appellant has to bear the expenses of shifting the electric line as per this Section. The line is to be drawn through the pocket road for which the consent may not be required.

Decision: -

From the analysis of the arguments and the hearing, following decisions are hereby taken:

(1) The appellant has to remit the revised estimate amount and the Licensee has to execute the shifting of this service wire.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/056/2022/_____ dated _____.

Delivered to:

1. Smt. Visalam, Aswathy, Eloor East, Udyogamandal P.O., Ernakulam Dist.
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Kalamassery, Ernakulam Dist.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.