

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION NO. P/062/2016
(Present: V.V. Sathyarajan)
Dated: 30th November 2016

Appellant : Sri. Mujeeb Rahman
Thaufeena Manzil,
Halal Chicken Mart,
Malayinkeezhu P.O.,
Thiruvananthapuram.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Vizhinjam,
Thiruvananthapuram.

ORDER

Background of the case:

This appeal petition has been filed by Sri. Mujeeb Rahman, Thaufeena Mazil, Nemo, against the order dated 09-08-2016 in OP No. 68/2016 passed by the CGRF, Kottarakkara, in the matter of changing of ownership of the service connection having No. 17365, under Electrical Section, Vizhinjam. The gist of the petition is that the appellant's father Sri. Abdul Rasheed was the registered owner of service connection with consumer no. 17365 provided to building No VP VIII in Thiruvananthapuram Corporation. It is alleged that one Sri. A. Siddique, Parayamvilakam Veedu, Vizhinjam has changed the ownership of the above service connection to his name by producing fake documents before the respondent. Though the appellant had approached the officers of the licensee, against the change of ownership of the service connection, the same was rejected by the respondent. The appellant then filed a petition before the CGRF, Kottarakkara and the same was dismissed the petition due to lack of maintainability. Aggrieved against this, the appellant has filed this appeal before this Authority.

Arguments of the appellant:

Sri Abdul Rasheed, father of the appellant was the registered consumer of service connection No. 11454967017365, who died on 01-03-2008. The property and buildings thereon originally belonged to one Sri Hameed Kannu. After his death it devolved on his wife and seven children and the wife also died thereafter. Thereafter it was managed by Abdul Rasheed, the father of appellant and thus the electrical connection was in his name. He constructed buildings also. While so, some bogus documents were executed in favour of Smt. Mumtaz Beegum, who is one of the daughters of deceased Hameed Kannu. She executed some deeds in favour of one Sri Siddique and he filed application before the Assistant Engineer, Electrical Section, Vizhinjam for transferring the electric connection in the name of Abdul Rasheed to his name.

The Assistant Engineer asked the appellant to file objection if any. Objection was filed and since there was no response a legal notice dated 23-03-2015 was also sent. Here it is pertinent to note that a suit as O.S. 1205/2014 for partition is pending before the Munsiff's Court, Neyyattinkara. But without giving an opportunity of substantiating the appellant's contentions connection was transferred to Siddique. Challenging this, a petition was filed before the Consumer Grievance Redressal Forum, Kottarakkara. Even though a version was filed by the opposite party, till the date of hearing no copy was served on the appellant. So the appellant was under the impression that no version has been filed. Only after hearing a copy was handed over. So the appellant could not understand their version before hearing.

In the version it is contended that Sri Siddique produced ownership, certified copy of ID card, copy of land tax receipt, copy of sale deed by Mumtaz Beegum in favour of Siddique and it is vaguely stated that a deed dated 27-07-1999 by Abdul Rasheed in favour of Mumtaz Beegum also produced. It is not stated that which type of document is that. But Abdul Rasheed has not executed any type of documents in favour of Mumtaz Beegum and it will be a forged one. No opportunity was given to see it and contest it. So it is urged that the transfer of consumer number to Siddique's name is to be cancelled. Without considering that after the death of Sri Abdul Rasheed his legal representatives are entitled to inherit him, the Forum dismissed the petition stating that the petitioner / appellant is not a "Consumer" under Section 2(15) of the Electricity Act without going into merit. Aggrieved by the order this appeal is filed.

Nature of relief sought from Ombudsman:

To set aside the order of CGRF, Kottarakkara dated 09-08-2016 in O.P. 88/16 dismissing the complaint and to direct the Assistant Executive Engineer and Assistant Engineer, Vizhinjam to cancel the transfer of electric connection No.17365 to Siddique's name from Abdul Rasheed.

Arguments of the respondent:

The respondent stated that Sri A. Siddique, Parayamvilakam Veedu, Vizhinjam. Thiruvananthapuram has applied for change of ownership of consumer no: 1145467017365 on 29-11-2014 and submitted the following documents in the specified format along with the application.

- a. The ownership certificate no: Vz A3 -6204/14 dated 22-11-2014 issued by the charge officer, Vizhinjam Zonal, Thiruvananthapuram Corporation. This certificate contains building nos. 1179, 1180, 1181, 1182, 1183 of 5 shops and No: 1179 has been identified as belonging to the said consumer number.
- b. Copy of election ID card No: SHB0170274 of Sri. Siddique.
- c. Copy of land tax receipt book No. 04112 No. 0411198 of Vizhinjam Village.
- d. Copy of sale deed between Smt. Mumtaz Beegum and Sri. Siddique dated 10th March 2011. On page No: 10 consumer No: V-17365 is clearly mentioned.

It was also verified that, the electric connection was originally in the name of Sri Abdul Rasheed from whom the property has been registered in the name of Smt. Mumtaz Beegum by a deed dated 27th July 1981. From Smt. Mumtaz Beegum, Sri Siddique has purchased the said property which is presently containing a two storied building with 5 shops in the ground floor. The said consumer number belongs to one of the shops, ownership of which are clearly evident from the above said document.

The appellant approached Electrical Section, Vizhinjam with an objection, but so far he has not substantiated his claim with any documentary evidence. Hence ownership of all the above five shops has been changed. The Details of disputed connection are furnished below.

Consumer No	:	1145467017365
Name and address	:	Sri A. Siddique Parayamyilakam Veedu, Vizhinjam. Thiruvananthapuram
Tariff	:	LT VII B, 3 phase
Connected load	:	1 kW
Date of connection	:	26-08-1998
Ownership change	:	29-09-2015

In view of the above facts, it is humbly prayed that the contention raised by the appellant may kindly be dismissed with cost.

Analysis and findings:

The hearing of the case was conducted in my chamber at Edappally on 11-11-2016 and Sri. Ramesh R.S., Assistant Engineer, Electrical Section, Vizhinjam, represented the respondent's side and the appellant was absent. On examining the appeal petition filed by the appellant, the statement of facts of the respondent, perusing all the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

On a perusal of the documents, it is found that the respondent has acted on the application for change of ownership of the service connection, by accepting the following documents from the applicant.

- a. The ownership certificate No: Vz A3 -6204/14 dated 22-11-2014 issued by Charge Officer, Vizhinjam Zonal, Thiruvananthapuram Corporation.
- b. Copy of election ID card no: SHB0170274 of Sri. Siddique
- c. Copy of land tax receipt book No. 04112 journal No. 0411198 of Vizhinjam Village.
- d. Copy of sale deed between Smt. Mumtaz Beegum and Sri. Siddique dated 10th March 2011.
- e. Copy of deed dated 27th July 1981 registered in the name of Smt. Mumtaz Beegum.

Though the service connection was registered in favor of Sri Abdul Rasheed on 26-08-1998, the property was in the name of Smt. Mumtaz Beegum as per document (deed dated 27th July 1981) produced by the appellant. As per prevailing rules, service connection can be taken either by the tenant or by the occupier of a building after executing an indemnity bond in stamp paper, indemnifying the licensee, KSEB from all further liabilities, even if the real owner of the building objects to provide the electricity in cases of disputes between the owner and the occupier.

The appellant's version is that the property and buildings thereon originally belonged to one Sri Hameed Kannu. After the death of Sri Hameed Kannu the property and buildings devolved on his wife and seven children including appellant's father, Sri Abdul Rasheed. Thereafter the property was managed by Sri Abdul Rasheed and thus the electrical connection was in his name. The allegation is that on the basis of some bogus documents the property was transferred to Smt. Mumtaz Beegum, one of the daughters of deceased Sri Hameed Kannu, but Sri Abdul Rasheed has not executed any type of documents in favour of Smt. Mumtaz Beegum. Hence the appellant argued

that the building was actually owned and legally possessed by his father and the transfer of ownership of existing service connection to Sri A Siddique is illegal and not sustained before law.

As per the records produced before this Authority, no Court of Law has issued any order restraining the said change of ownership of service connection. In such a situation, this Authority is of the opinion that the service connection shall be changed in the name of its real owner and get it regularized. But, as of now there exists no order of any competent authority restricting the transfer of ownership of the said electric connection to the legitimate owner of the building, based on the 'ownership certificate' issued by the Local Self Government Authorities.

As per the findings of CGRF, **“the respondent changed the ownership with the documents of the concerned authority. Hence the action of the respondent is genuine. As the petitioner is not a consumer of Electrical Section as per the Regulation 2(15) of Electricity Act, 2003 (revised in 2007) the petitioner has no right to file the petition before this Forum.”** Here also it is seen that the present case is only a part of a larger dispute of occupancy/ownership of the said property and building, which is long pending between the appellant and others, which can be decided only through a competent Civil Court. The change of ownership was effected on 29-09-2015. The Hon'ble Additional Munsiff Court I, Neyyattinkara has passed an injunction order IA 3878/15 in OS 1205/2014 on 5th November, 2015, restraining from

- 1) alienating plaint schedule property or any portion of it until the final disposal of the case and
- 2) committing any waste in plaint schedule property until the final disposal of the case.

Hence this Authority is of the opinion that the service connection to the said building shall be retained as long as the supply is consumed by the present occupier in the building and the electricity charges for the same are being paid in time, till the Civil Suits lying before the Hon'ble Civil Court, OS 1205/2014 (before the Additional Munsiff Court I, Neyyattinkara) or any other related cases, are pronounced and may take appropriate action accordingly.

Decision

In view of the above findings, it can be concluded that present case is only a part of a larger dispute of occupancy/ownership of the said property and building, which is long pending between the appellant and others, which can be decided only through a Civil Court's ruling. So this Authority didn't find

any reason to intervene in the matter at this stage. The order of CGRF in OP No. 88/2016 dated 09-08-2016 is upheld. No order as to costs.

ELECTRICITY OMBUDSMAN

P/062/2016/ _____ Dated: _____

Delivered to:

- 1) Sri. Mujeeb Rahman, Thaufeena Manzil, Halal Chicken Mart, Malayinkeezhu P.O., Thiruvananthapuram
- 2) The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vizhinjam, Thiruvananthapuram

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.