

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/041/2017
(Present: A.S. Dasappan)
Dated: 12th July 2017

Appellant : Smt. Vijayakumari L.,
Sadhu Mandiram,
Puthupally P.O.,
Kayamkulam,
Alappuzha

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd.,
Kayamkulam,
Alappuzha

ORDER

Smt. Vijayakumari L, Sadhu Mandiram, Puthupally P.O., Kayamkulam, Alappuzha, consumer of Electrical Section, Krishnapuram with consumer number 10117, has filed an appeal petition dated 07-04-2017 before this Forum and stands numbered as P/041/2017. The appeal is against the order dated 25-03-2017 of CGRF, Ernakulam, in the Petition No. CGRF-CR/Comp.120/2016-17, filed before it. The appellant alleges that the OH Electric line drawn through the 3 feet width road has no enough clearance from her house and it is unsafe for the appellant's family. Two separate civil suits filed by the appellant and her neighbor Sri. Swaminathan are pending before the Hon'ble Munsiff Court, Kayamkulam regarding the disputed pathway. A complaint filed by the appellant in this regard is also pending before the District Collector. Meanwhile, she also filed a petition before the CGRF, Ernakulam on 11-01-2017, upon which the CGRF has ordered as; "The entire issue in this case is now pending before the Hon'ble District Collector, Alappuzha and two connected civil suits are pending before the Hon'ble Munsiff Court, Kayamkulam regarding the disputed pathway. Hence the Forum decided to abstain from passing an order for shifting the line from the disputed

pathway by citing the above observations". Aggrieved by the said order of CGRF, the Appellant has filed the Appeal Petition, before this Authority.

The hearing of the case was conducted on 07-07-2017 in my Office at Edappally and both parties were present. Smt. Vijayakumari L, the appellant and Sri. K.S. Mohan Kumar appeared for the appellant's side and Smt. Sreedevi R., Assistant Executive Engineer, Electrical Sub Division, Kayamkulam for the opposite side.

The appellant has submitted the appeal petition on 07-04-2017 before this Forum and she has not raised any other grounds or arguments in this appeal petition, other than what she pleaded before the CGRF. Since the main reliefs sought are based on the same issues that are pending before the Hon'ble Munsiff Court and District Collector for decision, I do not feel it appropriate to entertain the petition on the ground that the case is not maintainable before this Forum also, as per Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that "no representation to the Ombudsman shall lie in case where a representation for the same grievance by the complainant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority".

Since a suit in OS 366/2016 filed by the appellant lies before the Hon'ble Munsiff Court, Kayamkulam and a complaint for the same grievance is also pending before the District Collector and in the light by the above provision under 22(d) of KSEERC Regulations 2005, which restricts the maintainability of the petition filed for the same cause of action and relief, the Appeal Petition filed by the appellant, need no further action at this Forum and hence stands rejected.

This Authority also feels that if there is availability of an alternate route technically feasible for giving supply to those consumers without disturbing the appellant's peaceful enjoyment of her property, there is no justification on the part of respondent to deny that advantage to the appellant that too charging the expenses if any from the appellant for shifting the overhead line as per the provisions in Regulation 95 of Supply Code, 2014.

Decision:

For the reasons detailed above, the appeal petition, filed by the appellant stands dismissed as it is found not maintainable before this Forum. The action

of CGRF, Ernakulam in the Petition No CGRF-CR/Comp.120/2016-17 dated 25-03-2017 is upheld. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/041/2017/_____ /Dated:_____

Delivered to:

1. Smt. Vijayakumari L., Sadhu Mandiram, Puthupally P.O.,Kayamkulam, Alappuzha
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kayamkulam, Alappuzha

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.