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APPEAL PETITION No. P/003/2018  
(Present: A.S. Dasappan)  
Dated: 19<sup>th</sup> March 2018

Appellant : Sri. Nanda Kumar Konat  
Nandanam, Sundara Iyer Road,  
Ottapalam, Palakkad

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd., Shornur,  
Palakkad

### **ORDER**

#### **Background of the case:**

The consumer No: 1167337011046 & 1167336008566 are effected in the name of Sri. A.S Sreejith ,Sreevilas, Kanniampuram for running an industrial unit named M/s Preesa Foods & spices India (Pvt.) Ltd under Vaniamkulam Electrical Section. Both the service connections are effected under LT IV A tariff with a connected load of 33kW & 79kW respectively. The appellant, Sri Nanda kumar who is the owner of the building having the above connections, has approached the Assistant Engineer, Vaniamkulam Electrical Section with a request to change the ownership of the connections in his name or to disconnect the connections if ownership is not changed. Since his request was not allowed, the appellant filed a petition before the CGRF, Kozhikode, and the Forum dismissed the petition vide order in OP No. 95/2017-18 dated 12-12-2017. Already a civil suit is pending before the Hon. Munsiff Court, Ottapalam against the forcible eviction. Aggrieved by the said order of CGRF, the appellant has filed the appeal petition, before this Authority.

#### **Arguments of the appellant:**

The appellant is the owner of the building having two numbers of electricity connections with consumer numbers 8566 and 11046. For the last several

months the appellant has been trying to change the ownership of the said connection to his name, but in vain. The appellant has submitted the original and copy of the property deed, latest tax receipt showing his name in the tax receipt, building ownership certificate and possession certificate taken for the purpose of KSEB electric connection.

When the appellant was not getting a proper response from local KSEB office, the appellant mailed a complaint to the CGRF, Kozhikode. There was a hearing on this case and it was attended by father of the appellant. The appellant had received the order on Dec, 12<sup>th</sup> 2017 stating that the connection cannot be disconnected. The request was to either change the ownership or disconnect the connection. The appellant never asked for disconnection specifically, but if the ownership cannot be changed then consider disconnection to avoid future liability. But the interpretation was made as if the appellant had requested disconnection only and the petition was dismissed.

**Arguments of the respondent:**

The appellant approached the 2nd respondent and requested for change of ownership to his name and to disconnect the supply of both the electric connections. The registered consumer of the above two service connection are Sri. A.S Sreejith, Sreevilas ,Kanniampuram and he is remitting the current charge regularly without default.

Sri.Sreejith, the registered consumer of the above two service connections submitted an application dtd. 2/8/17 before the Assistant Engineer and stated the following .

- 1) He is the Managing Partner of the firm.
- 2) The premises was originally owned and occupied by M/s Preesa foods and Spices India (Pvt) Ltd.
- 3) He is one of the directors of the said firm as per agreement dtd 1-4-16.
- 4) The premises was leased to him by the owner of the property Sri.Nandakumar Konat.
- 5) He has filed a suit (OS: 181/2017) against forcible eviction before the Hon'ble Munsiff Court, Ottapalam .
- 6) A full -fledged factory is functioning and about 30 employees are working.

7) The service connection shall not be disconnected arbitrarily without giving him an intimation and opportunity of hearing.

Since an objection was raised by the registered consumer Sri. A.S. Sreejith , as per regulation 90 of the Supply Code 2014, the Assistant Engineer insisted to the appellant to produce a 'No Objection Certificate (NOC)' from the existing registered owner. The Appellant did not produce the NOC and hence the Assistant Engineer rejected the application of the appellant for ownership change & disconnection of supply.

Since the respondent rejected the application of the appellant, the appellant approached the CGRF, Kozhikode vide OP 95/17-18. The forum after conducting a detailed hearing issued an order stating that there is no provision to disconnect the supply as the present occupier cum consumer, Sri. A.S Sreejith has been remitting the current charge without default and the transfer of ownership of the present electric connection to the petitioner's name cannot be allowed.

The act of the respondents are well within the prevailing rules and regulations. Hence it is hereby respectfully submitted that the appellant is not entitled for ownership change and disconnection of supply as sought for and it is hereby prayed to declare that the action, of the respondents' is well within the purview of the prevailing rules and regulations and is in order and to dismiss the petition with cost.

**Analysis and Findings: -**

The hearing of the case was conducted on 20-02-2018, in the Court Hall of CGRF, Kozhikode and the appellant was represented by Sri. S.Kumaran, Smt. V.Reetha, Advocate and Smt. Shilpa B, Advocate, and Sri. Valsa Kumar M.S., Assistant Executive Engineer, KSEBL Shornur Sub Division and Sri Unnikrishnan K.K., Nodal Officer (L), Electrical Circle, Shornur appeared for the respondent and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the final decisions thereof.

The appellant is the owner of the property and the building no.7/89 bearing consumer no.11046 and building no. 7/89A bearing consumer number 8566. The appellant adduced the following averments. Transfer of Electric connection

in the name of the new owner cannot be denied for want of NOC from Sri. Sreejith who is neither the earlier owner nor he produced any document to show that he has any legal right in property. The basis of the respondents objection is a letter from Sri. Sreejith wherein it is stated that Sreejith is Managing Director of a firm, no document is produced and connection is not given on the basis of any partnership deed.

According to the appellant, Sri. Sreejith has been removed from the post of Managing Directorship of the company as per resolution dated 5.04.2017. Sri. Sreejith claims that the property is leased to him by the owner Sri. Nandakumar Konat. No document is produced to show that there is any lease. Sri. Sreejith claims to have filed a suit against a forcible eviction in the Munsiff Court Ottapalam. In fact his application for injunction has been dismissed. He claims that a fully fledged factory is functioning and 30 employees are working. No documents are produced to show the above claims.

The appellant has also referred the following regulations in the Kerala Electricity Supply Code 2014. As per the Kerala Electricity Supply Code 2014 Sec.41(2) the consumer has to intimate about the transfer of ownership which has not been done and if he fails to intimate the same under S.41 (11) the connection has to be disconnected.

As per Sec.91 of the Supply Code if the previous consumer does not give the NOC the application for change of name should be entertained, if the present owner pays the security deposit. The appellant who is the present owner is willing to deposit the security deposit to transfer the connection.

The respondent has submitted the following averments in the statement of facts advanced by him.

On the basis of the objection raised by the registered consumer Sri.Sreejith , as per regulation 90 of the Supply Code 2014, the respondent insisted to the appellant to produce a 'No Objection Certificate (NOC)' from the existing registered owner and due to the appellant's failure to produce the NOC, the respondent rejected the application of the appellant for ownership change.

It is true that the reason for rejection for change of ownership is due to the failure of the appellant to produce a 'No Objection Certificate (NOC)' from the registered consumer. The Supply Code, 2014 stipulates the following rules in the case of change of ownership of the electricity connections.

90. Procedure for modification or change in existing connections.-

(1) The applicant shall apply for modification or change in the existing connection in the forms as stipulated hereunder:-

SI.No.	Purpose	Application form
i	application for the change in name of the registered consumer due to change in the ownership or occupancy	Annexure - 8
ii	application for transfer of ownership to the legal heir	Annexure - 9
iii	application for conversion of services/change of consumer category/shifting of meter or service line	Annexure - 10
iv	application for enhancement or reduction of load	Annexure - 11

(2) All application forms for modification or change in the existing connection shall be accompanied with an identity proof of the applicant in accordance with regulation 44 of the Code, if the connection is registered in the name of the applicant himself or with a no objection certificate (NOC) from the person in whose name the connection is registered.

(3) The processing of the application shall be done as specified in regulation 76 of the Code mutatis mutandis.

**91. Transfer of service connection-** (1) The consumer shall not, without prior consent in writing of the distribution licensee, assign, transfer or part with the benefit of the service connection agreement executed with the distribution licensee, or part with or create any partial or separate interest there under in any manner.

(2) The service connection may be transferred to another person on transfer of ownership or occupancy of the premises, by filing an application in the format specified in Annexure - 8 along with the required documents in support of the request:

Provided that such transfer shall not entitle the applicant to require shifting of the connection from the present premises.

(3) The transferee shall pay the required security and execute a fresh service connection agreement.

(4) The licensee shall process applications relating to change of name of the consumer due to change in ownership or occupancy of the premises in accordance with the procedure detailed below:-

(a) the applicant shall apply for the change of name of the consumer in the format prescribed in Annexure - 8 to the Code, along with a copy of the latest bill, duly paid;

(b) the request for transfer of connection shall not be accepted unless all recoverable dues in respect of the concerned connection are fully paid;

(c) the application form shall be accepted on showing proof of ownership or occupancy of the premises;

(d) a no objection certificate from the registered consumer or previous occupant of the premises or a person authorised by them shall be required in the cases involving transfer of security deposit in the name of applicant;

(e) the licensee shall process the application form in accordance with the relevant provisions of the Code;

(f) in case the no objection certificate from the registered consumer or previous occupant of the premises or a person authorised by them is not submitted, an application for change of name shall be entertained only if security deposit as stipulated in the Code is paid afresh by the applicant;

(g) in such case, the original security deposit shall be refunded to the person who is entitled for the refund along with an intimation regarding the proposed transfer;

(h) change of the name of the consumer shall be effected within fifteen days from the date of receipt of the application with all necessary documents and the necessary fees, under intimation to the transferor and the transferee;

(i) the change shall be effected in the bill within a maximum of two billing cycles after acceptance of application.

The appellant insists that as per Regulation 91 (f), a no objection certificate is not compulsory for entertaining the application for change of name and it is only required to pay the security deposit afresh by the applicant. It is also revealed that the appellant had submitted the required documents for change of ownership, but rejected only on the basis of non-production of the NOC from the present registered owner. It is not confirmed whether the respondent has verified the following details given by Sri. Sreejith by obtaining relevant documents from him. 1. He is the Managing partner of the firm, 2. The premises was originally owned and occupied by M/s Preesa Foods & Spices India Pvt.Ltd., 3. He is one of the directors of the said firm, 4. The premises was leased to him by the owner of the property, Sri Nanda kumar Konat, 5. He has filed a suit (OS 181/2017) against forcible eviction and 6. A full fledged factory is functioning and about 30 employees are working. It is a fact that Sri Sreejith is the registered consumer and the Board had executed an agreement with this registered consumer. Even though an NOC is not compulsory for change of ownership, the registered consumer filed objection against changing ownership. Further a civil case regarding this property matters is still pending before the Munsiff Court, Ottapalam. There is no question of disconnection of supply as the registered consumer/occupier has been remitting the current charge without default.

**Decision**

In view of the pendency of the civil disputes, it is not just and proper for this Authority to make any authoritative decisions in this regard. The parties are left at liberty to approach this Authority or any appropriate Forum under the provisions in the Electricity Act, 2003 after settling the civil disputes, if they are so advised.

In the above circumstances, I do not want to interfere the decision of CGRF in OP No. 95/2017-18 dated 12-12-2017, at this stage. The petition is not allowed and disposed accordingly. No order as to costs.

**ELECTRICITY OMBUDSMAN**

Ref. No. P/003/2018 / \_\_\_\_\_ /Dated \_\_\_\_\_

Forwarded to

- 1) Sri. Sri. Nanda Kumar Konat, Nandanam, Sundara Iyer Road, Ottapalam, Palakkad
- 2) The Assistant Executive Engineer, Electrical Sub Division, KSE Board, Shornur, Palakkad.

Copy to: -

- 1). The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2). The Secretary, KSEB, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
- 3). The Chairperson, Consumer Grievance Redressal Forum, Kozhikode, Vydhyuthibhavan, Gandhi Road, Kozhikode 673011.