

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/037/2018
(Present: A.S. Dasappan)
Dated: 21st August 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: 28071 is effected in the name of Sri. A.S. Sreejith, Sreevilas, Kanniampuram for running an industrial unit named Palada products under Electrical Section, Ottapalam. The service connection is effected under LT IV A tariff with a connected load of 14 kW. The appellant has purchased the property as per sale deed document number 1199 of of SRO Ottapalam on 23-04-2016. The appellant who is the present owner of the building bearing Door No. 10/330 (1) having the consumer number 28071, has approached the Assistant Engineer, Ottapalam Electrical Section with a request to change the ownership of the connection in his name. 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. 182/2017-18 dated 03-05-2018. 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 title holder of the property which consists of a building bearing Door No.10/330(1) as per Registered Sale Deed No,1199 of 2016 before the Sub Registry, Ottapalam dated 23,04.2016. The above said building has an electric connection bearing Consumer No.28071 given by the Assistant Engineer, Electrical Section, Ottapalam. The appellant has effected mutation of the property in the revenue records and is paying land tax and building tax for the same. True copies of the Registered Sale Deed No.1199 of 2016 before the Sub Registry, Ottapalam dated: 23-04-2016, Land Tax receipt No.0560806 dated 14.05.2018 issued by the Village Officer, Ottapalam, building Tax Receipt No.01/118270104156 dated 18.05.2018 issued by the Ottapalam Municipality and the Possession Certificate dated 13-09-2017 issued by the Village Officer, Ottapalam are produced herewith.

The appellant filed application with all requisite documents and paid requisite fees for the transfer of ownership of the electricity connection to his name. In spite of the repeated enquiries, no action was taken by the respondents on the transfer application. So the appellant sought for details on the status of the transfer application through Right to Information Act, 2005 and the respondents replied that the said application was dismissed as denied.

The Consumer Grievance Redressal Forum, Northern Region, Kozhikode, in O.P No.182/2017-18, without correctly considering the contentions of the appellant dismissed the complaint by order dated 03.05.2018 stating that “even though the premises is owned by the petitioner, the ownership of the service connection is in the name of Sri. A.S. Sreejith, who had requested the respondent to retain the service connection in his name and if any disconnection is required, the facts to be intimated to him. As such the forum notices that Sri A.S. Sreejith has not given consent to change the ownership of the electric connection to the petitioner”.

The title and possession of the property including the building is in the possession of the appellant and the predecessor - in - interest has no right over the same. No documents are produced by the predecessor - in - interest either before the respondents herein or before the Forum claiming title to the property and the building.

It is learnt by the appellant that the respondent licensee had dismissed the transfer application and denied change of ownership of the electricity connection in the building owned by the appellant stating that “the predecessor - in - interest Sreejith has issued a letter to the licensee stating that there is no due in the Consumer number and so he has to be intimated before

disconnection of the same". The Forum ought to have noted that the appellant is not seeking for disconnection and has only requested for change of service connection in his name being the owner of the land and building.

The Forum ought to have noted that as per Section 91 of the Kerala Electricity Supply Code, 2014, if the previous consumer does not give the No Objection Certificate for change of name, the respondents have the authority to change the electricity connection to the name of the appellant by accepting fresh security deposit which the appellant is ready and willing to pay at any time. This important aspect was not considered by the Forum.

The appellant requests to direct the respondent to allow the application for change of ownership of the Consumer No.1165332028071 to the name of the appellant.

Arguments of the respondent:

The consumer No: 1165332028071 was effected in the name of Sri. A.S Sreejith, Sreevilas. 10/330, Kanniampuram, Ottapalam (Proprietor, Kamadhenu Food Products) for running an industrial unit (Palada Product) under LT IV A tariff on 02.11.2005 with a connected load of 14kW.

The appellant approached the respondent and requested for change of ownership of the above service connection to his name. The registered owner of the above electric connection is Sri. A.S. Sreejith, Sreevilas, Kaniampuram and he is remitting the current charge regularly without default. Sri Sreejith, the registered consumer of the above service connection submitted an application before the respondent and stated the following.

- 1) The service connection bearing No: 28071 is in favour of his name.
- 2) There are no dues in the above consumer number.
- 3) The connection to be maintained in his name, and
- 4) Before disconnection it has to be intimated to him.

Since an objection was raised by the registered owner Sri. A.S. 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 consumer. The Appellant did not produce the NOC and hence the respondent rejected the application of the appellant for ownership change. The

The CGRF has stated that "even though the premises is owned by the petitioner, the ownership is in the name of Sri. A.S. Sreejith, who had requested the respondent to retain the service connection in his name and if any disconnection is required, the fact to be intimated to him. As such the

forum noticed that Sri. A.S. Sreejith has not given consent to change the ownership of the electric connection to the petitioner".

The acts of the respondents are well within the prevailing rules and regulations.

Analysis and Findings: -

The hearing of the case was conducted on 27-07-2018, in the Office of the Electricity Ombudsman, Edappally, Kochi 24 and the appellant was represented by Sri. Geen T Mathew, Advocate, and Sri. Valsa Kumar M.S., Assistant Executive Engineer, KSEBL Shornur Sub Division 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.10/330 (1) bearing consumer no. 28071. 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 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 has not given the No Objection Certificate for change of name.

The issue referred in this appeal is with respect to the change of name and address of the consumer No. 28071 in the records of the licensee.

As per records produced by the appellant, he is in absolute possession, enjoyment and ownership of the property of 16 Are comprised in survey No. 82/1 of Ottapalam Village and building no. 10/330(1) of Ottapalam Municipality. But the respondent denied the request of the appellant for change of the name and address of the registered consumer because of the failure on the part of appellant to produce a written consent from the present registered consumer as per Regulation 90 (1) of the Supply Code, 2014 and moreover a written objection was filed by the present registered owner of the connection no.28071. After hearing the submissions made by the appellant and the respondent and on perusal of the records produced, it is prima facie evident that the property and the building is originally owned by the appellant and the present registered consumer obtained connection on 02-11-2005 and the appellant purchased the property and the building vide Sale Deed No. 1199 of Sub Registry, Ottapalam dated 23-04-2016.

As per Regulation 90 (1) of Supply Code, 2014, application for the change in name of the registered consumer due to change in the ownership or occupancy shall be applied in proper form (Annexure 8) along with the following documents.

1. Copy of the latest bill duly paid.
2. Proof of ownership/legal occupancy of premises.
3. No objection certificate from the existing consumer if available /possible
4. Registered deed/successor certificate (if any other document)

On going through the model application form for change in name of registered consumer (Annexure 8) of Supply Code, 2014 it can be seen that No Objection Certificate from the existing consumer can be insisted if it is available or possible as mentioned in Note No. 3 of Annexure 8 of Supply Code, 2014. Regulation 90(1) of Supply Code, 2014 is applicable for change in the name of registered consumer due to the change in the ownership or occupancy. In this case, there is change of ownership.

Regulation 91 (4) (f) reads as ***“in case the no objection certificate from the registered consumer or previous occupant of the premises or a person authorized 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.”*** The above provisions reveal that the production of the NOC from the existing consumer is not mandatory for change of name. Further, the evidence shows that Sri Sreejith is not the owner of the property, but he is occupying the premises and paying the electricity bills regularly. In this background the Regulation 91(4) (f) will apply in this case.

On a perusal of the records, it is revealed that no civil case regarding the ownership is pending in the Courts. Hence there is no bar for this Authority to consider the issue and pass appropriate order.

From the records it is revealed that the registered consumer is not the owner in the said premises at present, it is proper for the respondent to take action on the application for change in name without insisting no objection certificate from the existing consumer/owner as per the Note 3 of the model application form (Annexure 8) of Regulation 90(1) and as per Regulation 91 (4) (f) of Supply Code, 2014. Though the registered owner raised an objection regarding change of ownership, his only request is not to disconnect the connection. A mere objection without any valid reason is not a sufficient ground to deny a legitimate request. In the absence of no objection certificate from the registered consumer, the owner can deposit the security amount as stipulated in the Supply Code afresh and apply for change of name.

As per Regulation 146 of Supply Code, 2014, supply of electricity not to be disconnected when utilized and paid for by a lawful occupier of the premises. The regulation reads as: “In case the consumer requests for disconnection of supply or for dismantling of service, while the supply is being utilized and paid for by a

lawful occupier of the premises, the supply shall not be disconnected and service shall not be dismantled”.

The respondent shall not disconnect the service connection of the premises if the supply is being utilized and paid for by the present occupier of the premises.

Decision

In view of the discussions, it is concluded that the respondent is directed to change the name of the registered owner on deposit of security amount afresh by the appellant as per Regulation 91(4) (f) observing all other formalities. This shall be done at any rate within 30 days from the date of receipt of this order. It is also made clear that the security deposit remitted by the present registered owner of the connection can be refunded to him on his application if any as per the prevailing rules. The respondent is directed to act as per Regulation 146 of Supply Code, 2014 in the case of disconnection and dismantling.

The order of CGRF, Kozhikode in OP No. 182/2017-18 dated 03-05-2018 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/037/2018/_____ /Dated:_____

Delivered to:

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

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, Gandhi Road, Kozhikode