

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/042/2018
(Present: A.S. Dasappan)
Dated: 13th September 2018

Appellant : Sri. Sreekumar E.R.
Edakkathalath House, Eloor East,
Udyogamandal P.O.,
Ernakulam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd., Kalamassery,
Ernakulam

ORDER

Background of the case:

Sri Sreekumar E.R., has filed an Appeal Petition dated 11/07/2018 before this Authority and stands numbered as P/042/2018. The appeal is against the order dated 18-04-2018 of CGRF, Ernakulam, in the OP 93/2017-18 dismissing the complaint due to lack of jurisdiction, filed before it. A suit in O.S. 589/2016 filed by the appellant regarding the dispute of property is pending in the Hon: Munsiff Court, Paravur.

Arguments of the appellant:

The appellant is permanently residing at the above address and temporarily at Vazhakkala, Kakkanad. There is no boundary stone on the east and south side of the appellant's property which is lying at 5 feet height.

The appellant's neighbour, Sri Sanoj Kumar is having a narrow pathway on the south side of the appellant's property. In January 2015, Sri Sanoj Kumar and Sri Shyam Kumar who are the neighbours residing at the south

side of the appellant's property, flattened the ground and widened the pathway with the help of political influence and police and later the KSEB Eloor Division employees erected several poles and street lights.

Though the appellant complained to the KSEB Chief Engineer, no action had been taken. Later the appeals were submitted to the CGRF, the order was issued in favour of Sri Shyam Kumar and Sri Sanoj Kumar. There is a case No. OS 589/16 pending before the Paravoor Munsiff Court to demark the east and south side of the property.

The appellant requests to take department level action against the employees of KSEB.

Arguments of the respondent:

The appellant Sri Sreekumar E.R., Edakkolath House, Eloor East, Udyogamandal P.O., have a property and a residential building at Elenjikkal ward No. 07 of Eloor Municipality under Electrical Section, Eloor. Now this building is not using and appellant is residing at Kakkanad since 2015.

The south side of the property is a narrow pathway (Nadavazhi) and which is using by Sri Shyam Kumar, Sri Sanoj Kumar & family. This "nadavazhi" is a private road under the ownership of Sri Shyam Kumar, Sri Sanoj Kumar & family. There are some disputes still alive between the appellant and above said neighbours.

During 2013-14 Eloor Municipality remitted the cost of expenditure for extending street main along the 'Nadavazhi' up to the property of Sri Shyam Kumar. Afterwards Municipality provided a street light in the newly erected pole utilizing PPS fund.

The appellant said that the newly erected pole for providing street light is in his property and also mentioned that Sri Shyam Kumar and Sri Sanoj Kumar were mislead the KSEB officials about the ownership of the location where the street light pole was planted,

The appellant has not submitted any documents regarding the possession of the land where the disputed pole was planted. This location was marked by the then councilor of Eloor Municipality. More over the erection of pole was completed several years back.

Analysis and findings:

Hearing of the case was conducted on 14-08-2018 in the Office of the State Electricity Ombudsman, Edappally, Kochi. Sri. Sreekumar E.R., the appellant, appeared and Sri Raju P, Assistant Engineer i/c, Electrical Sub Division, Kalamassery represented for the respondent. In view of the arguments made by both parties, it appears that the foremost question to be decided in the matter is whether the appeal petition is maintainable or not. It is needless to enter into the merits of the case, if this Authority has no jurisdiction to entertain the same.

The subject relates to the erection of pole and installation of street lights in a pathway during the year 2013. The appellant's complaint is that the neighbours encroached the property and widened the pathway with the help of political influence and police and later the KSEB Eloor Division employees erected several poles.

The appellant has requested disciplinary action against the officers of the respondent. Any disciplinary action against the officers of the respondent is vested with the KSE Board Limited. Regarding the allegations against the KSEB officers and for taking disciplinary action against them, this Authority has no jurisdiction to entertain such matters. The only remedy available for the appellant is to approach the authorities of KSEB Limited for the lapses on the part of responsible officers of the licensee in adopting proper procedure in implementing any schemes.

The appellant also informed to this Authority that some disputes are pending in between the appellant and his neighbours and the appellant filed a suit in the court. 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 an 'OS' filed by the appellant lies before the Court regarding the subject of ownership, the issue can be settled after disposal of the case, which restricts the maintainability of the petition filed before this Authority. Hence the Appeal Petition filed by the appellant, need no further action at this Authority and hence stands rejected.

Decision

For the reasons detailed above, the appeal Petition No. P/042/2018, filed by the appellant stands dismissed as it is found not maintainable before this Authority. The order of CGRF, Ernakulam is upheld. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/042/2018/ _____ /Dated: _____

Delivered to:

1. Sri. Sreekumar E.R., Edakkathalath House, Eloor East, Udyogamandal P.O., Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kalamassery, Ernakulam

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.