

THE STATE ELECTRICITY OMBUDSMAN  
Charangattu Bhavan, Building No.34/895,  
Mamangalam-Anchumana Road,  
Edappally, Kochi-682 024  
[www.keralaeo.org](http://www.keralaeo.org) Ph: 0484 2346488, Mob: 91 9539913269  
Email:ombudsman.electricity@gmail.com

---

APPEAL PETITION No. P/098/2019  
(Present: A.S. Dasappan)  
Dated: 7<sup>th</sup> February 2020

Appellant : Sri. C. M. Michael  
Cheramel House, Kaithapara,  
Udumbannoor P.O., Thodupuzha,  
Idukki

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Vazhathoppe,  
Idukki

### **ORDER**

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

The appellant is the owner of the agricultural land at Makkuvally-Manayathadom-Kaithapara area under Electrical Section, Kanjikuzhy. The grievance of the appellant pertains to the electric line drawn by KSEBL through the property of the appellant without his consent. The request of the appellant is to re route the line to a convenient route through his property with KSEB's cost. The petition filed by the appellant before the CGRF (Central) Ernakulam, vide OP No. 43/2019-20 was dismissed due the lack of merits vide order dated 09-12-2019. Still aggrieved by the order of the CGRF, the appellant has filed the Appeal Petition before this Authority on 19-12-2019.

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

As per the Total Electrification Scheme in Makkuvally Manayathadom and Kaithapara, KSEB has drawn electric line through the property of the appellant crossing one corner to other without his permission or willingness. The appellant is not residing in the property and which is being used for cocoa plantation. The appellant has no benefit of

this line which connected on 20-01-2019. The appellant filed petition to the Assistant Engineer and other officers of KSEBL and finally in CGRF. The appellant is using the land received from his father for cultivation for the last 50 years. KSEB's argument is that the appellant has no deed of the land, but KSEB has not demanded the deed so far. Nevertheless, the appellant has no objection in drawing the line but has to be shifted to a convenient route through his property with KSEB's cost as they had not obtained his consent for drawing the line, If the line is not shifted to a convenient route, he cannot construct a house or to continue cultivation.

The request of the appellant is to reroute the line through his property without realizing any cost from him.

**Arguments of the respondent:**

The Low-Tension Single-Phase line against which the complaint raised was constructed under DDUGJY Scheme, a Central Govt. funded project in the Total Electrification of an unelectrified settlement colony in a remote area in Idukki district for more than 50 years at Makkuvally-Manayathadom-Kalthapara area under Electrical Section Kanjikuzhy. The locations are very difficult to access due to narrow ghat roads passing through forests in high terrain areas having deep valleys and hills. The work was carried out through the technically and economically most feasible shortest route with minimum tree cutting and objections from the property owners in a time bound manner within the stipulated time of completion of the project. Till the completion of the construction of the line the appellant did not raise any objection.

The LT Line under dispute is passing through the property of the appellant who is claiming to be the owner of the property with least inconvenience to his property having sufficient clearance and having no line supports (electrical posts) in his property and only the electric line passing over his property and is drawn without any tree cutting in his property while construction. In Idukki district due to the terrain conditions drawing of electric lines by observing all formalities and obtaining sanction from all sides is very difficult in advance especially in a Central Govt. funded Schemes like DDUGJY in which the work is to be carried out in a time bound manner within the stipulated time. Majority of the lands in these areas are having no inhabitants and finding the whereabouts of the property owners are very difficult and also it is very difficult to identify the properties in these areas since the land and properties in these areas are having no "Pattayam" and most of them are "non-patta" land. During the surveying of drawing new lines in these areas wide publicity has been given to the locals and the appellant himself was aware about this line and he has already admitted it in his complaint that, "he had given consent for drawing the line through his property while during the survey conducted for the above line". On local enquiry it is known that one of his neighbours reported that "the property through the LT Line drawn is not in the name of appellant which is under dispute" the line was drawn to give electric

supply to Sri. Joseph Mani, Cheramel, Kanjikuzhy and it is known that applicant for electric connection is the elder brother of the appellant.

The site plan of the already constructed Low Tension Electric line is attached herewith in which all the details are marked. The property marked within BCDE is the property of appellant Sri. Michael, Cheramel and AHF is the already constructed electric lines crossing the property of Sri. Baby, Kolambael and the appellant Sri. Michael Cheramel. The area under the sketch is in one side of a hilly terrain area with the bottom portion leading towards a valley. The neighbours of the appellant are

1. Property of Sri. Kuriachan, Kolambael. (south side)
2. Property of Sri. Joseph Mani, Cheramel. (east side)
3. Property of Sri. Baby Kolambael, (west side)
4. Property of the appellant himself (north side)

Property of the appellant is cultivated with cocoa plants and the property of Sri. Baby Kolambael (left side neighbour of the appellant) is cultivated with long yielding rubber trees, jack fruit etc. There are four possible routes in which the line can be re-routed.

Route No.1. (ABCD) Through the boundary of the properties of Sri. Baby Kolambael, Sri Kuriachan Kolamhael, Sri Joseph Mani Chiramel and the appellant through which additional tree cuttings are required (Rubber trees, cocoa plants, coconut trees etc) and the neighbours of the appellant are not willing to give consent for this proposal due to the cutting of their trees and insertion of stay wire, electric post etc in and boundaries of their properties. In addition to this erection of electric post at C is very difficult since it is a valley point with rocks and boulders.

Route No.2. (ABHED) Sri. Baby Kolambael and Kuriachan Kulambael objecting this proposal due to the cutting of yielding rubber trees and positioning additional stays etc in their properties. The already constructed line crossed over the property of Sri. Baby Kolambael once, again re-routing it through another boundary is not acceptable to him.

Route No 3. (AHED) This route is also objecting by Sri. Baby Kolambael for the same reason as mentioned in route no.2.

Route no.4. (AGED) The appellant is arguing that this route is a path way for all and the line should be re-routed through this path way. In this route long yielding rubber trees, jack fruits, cocoa plants etc situated in both the boundaries of the property of Sri. Baby Kolambael should be cleared.

All the neighbours of the appellant are objecting the re-routing of the existing line because of the cutting of their trees and other issues of laying stays and line supports in their property. Sri. Baby Kolambael the property owner in the western boundary of the appellant stated that "the already constructed line is crossing over his property and some trees were already

cut and removed while drawing the line, more over one electric post is inserted in his property with a stay and re-routing the lines in all the four possible routes mentioned above is badly affecting him more. In all the routes requires additional tree cutting of yielding rubber trees, jack fruit, cocoa plants etc in addition to the already cleared existing line route through his property" He also stated that while constructing the existing disputed line which also crossing the appellants property didn't clear any trees in his property while drawing the line or thereafter and there is no electric post or stays inserted in his property only the line is passing over the appellant's property with more than sufficient large statutory clearance from the yielding cocoa plants cultivated in his property and in no way harmful to the appellant. Hence the deviation of the existing line as per the demand of the appellant cannot be tolerated in any way.

Sri Joseph Mani Cheramel the neighbour in the eastern boundary of the appellant and the elder brother of the appellant is also objecting the re-routing of the line through route No. 1 (i.e., ABCD) due to the cutting of his yielding cocoa plants, coconut and the other large trees. Moreover he is challenging the ownership of the property of the appellant. He stated that "the property of the appellant as he claims is not in his name and that is in the name of their grandfather and is a joint property of their family, he does not have the authority to demand the shifting of the line by himself and there by objecting the re-routing of the existing line and he had given it as in written.

The other neighbours Sri. Kuriachan Kolambael and Joseph Malayattil are also objecting the re-routing of the already constructed line because of their inconvenience for the insertion of stays and electric posts in or near the boundaries and the removal of trees or branches of the trees in their property. Even though it is comparatively less compared to the damages causing to Sri. Baby Kolambael who is the most affected person and then Sri. Joseph Mani Cheramel, the elder brother and eastern side neighbour of the appellant. Both of them having thick cultivation of large long yielding rubber trees, jack fruits, cocoa plants etc compared to the cocoa cultivation of the appellant in his property.

The technical difficulties of re-routing the line is detailed as below. Drawing the electric line with sufficient statutory clearance in such a terrain conditions having deep valleys and hills is very difficult. In all the possible proposed deviations are through steep gradients having 60 degree to 90 degree angle upwards in the side of a hill area from bottom to top direction. Locating and erection of electric posts in some areas is not possible and very difficult such as in "C" (as marked in the sketch) in a valley point and at the corner of the property of the appellant is very difficult due to the rocks and the boulders situated and the terrain conditions there by maintaining the proper statutory clearance. In such a terrain conditions drawing the electric line through the exact boundaries of the property owners is also very difficult and almost not practical considering the aspects of maintaining the proper statutory clearance as per rules through out the length of the line which includes the valley points and with steep

gradients having so many deviations and insertion of stays to the angle points etc. The initial construction, capital cost and future maintenance of the line is also very difficult. Drawing the lines with minimum deviations as possible and a gradual increase in the gradients along the sides of the hilly areas is preferable for the most suitable technical standard and feasibilities for maintaining the lines with sufficient technical standards and for future maintenance.

While considering the objections of the properly owners the tree cutting required in the properly of Sri. Baby Kolambael and Sri. Joseph Mani Cheramal is comparatively high as a result of thick cultivation of long yielding trees like Rubber trees, Jack fruits and Coconut etc. As the geographical nature itself the properly of the appellant is slightly in a lower level than his neighbours on both sides, and the cultivations are Cocoa plants. Hence the statutory clearance of the existing line over his properly is sufficient large than required. There was no need of any type of tree cutting in his properly during the time of construction of the line or thereafter. There is no electric posts or stays is located in the property of the appellant, only the electric line is passing over his property with sufficient large clearance. Another point is that even though the appellant demanding to shift the already constructed line to the boundaries of the properties of the appellant and to his neighbours, the existing boundaries are also under dispute among the neighbours it cannot access the authenticity of all these facts.

It may also be noted that the cited line was constructed through very tough hilly remote areas, and is very difficult to draw the line through the exact boundaries of the properly owners in these areas. Also, the presence of hard rock creates problem for digging of pits for poles and stays. In addition to the transportation of materials to the remote hilly areas having no proper transportation facilities only narrow Ghat roads through the forest hilly areas capable of traveling small vehicles with hilly gears are the only route to this place having wild animals in the forest route.

Hence the existing line was constructed by considering all the above mentioned facts with least inconvenience to the property owners with minimum tree cutting and through the technically and economically most feasible shortest route with least objections from the property owners and minimum tree cutting. In this circumstances deviation of the lines from the already constructed alignment may create more disputes, court cases.

The appellant filed a petition before the CGRF Ernakulam vide Complaint no-43/2019-20 on 18-7.2019. After hearing both the parties the Forum dismissed the petition of the appellant due to the lacks of merits. After dismissing the complaint of appellant by the Forum the service connection to Sri Joseph Mani, Cheramel (H), Kanjikuzhy has been effected on 19-12-2019 which was withheld and delayed due to the complaint of the appellant.

The appellant is not a consumer in the jurisdictional area of this office and hence the petition is not maintainable in this Forum only the property of the petitioner to which the petitioner is claimed to be his own is coming under the Jurisdiction of this office. The matter is to be taken up with and is to be considered by the Additional District Magistrate as per rules. More over the appellant could not produce the documents to prove the ownership of the property through which the line passes over. In this circumstances the arguments and the petition of the appellant may be dismissed due to the lack of merits.

**Analysis and Findings: -**

The Hearing of the case was conducted on 28-01-2020 in the office of the State Electricity Ombudsman, Edappally, Kochi 24. Sri Jose Mon represented the appellant and argued the case on the lines stated above. Sri. Babu Paul, Assistant Executive Engineer of Electrical Sub Division, Vazhathoppe represented for the respondent's side.

On perusing the Appeal Petition, the counter statement of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

This grievance of the appellant is regarding KSEBL, Kanjikuzhy Section had drawn electric low-tension line through the middle of the land owned by the appellant. This has been done by KSEBL without his consent or knowledge. The OH line was drawn in 2019 for providing domestic connections under Total Electrification Programme.

The respondent's version is that the Appeal Petition is not maintainable because the appellant is not a consumer under the jurisdiction of the respondent. . The appellant, Sri C.M. Micheal comes under the definition of 'Complainant' and his complaint relates to grievance connected with the supply of electricity and hence the petition is maintainable.

The request of the appellant is to shift the newly drawn LT single phase 2 wire line from the middle of the property towards the narrow path way or boundary. According to him, the nearby property owner has no objection in erecting pole in his property and drawing line. The subject case was considered by KSEBL's Adalath and not decided since the case is pending with Ombudsman and opined that it is a case for taking up with District Magistrate.

The provisions under Regulation 47 of Supply Code, 2014 has to be adhered in the case of right of way for placing line, acquisition of land for substation and clearing objection to placing lines and plant. Regulation 47 reads as follows.

"47. Right of way for placing line, acquisition of land for substation and clearing objections to placing lines and plant. - (1) Obtaining right of way

for placing line and acquiring land for construction of substation in accordance with the rules issued by the Government of Kerala, shall be the responsibility of the licensee. (2) The licensee shall follow the rules issued by the Government of Kerala in accordance with Section 67 and Section 164 of the Act, in the case of obtaining right-of-way, paying compensation to the affected parties, clearing the objection to work involving private property crossing etc. (3) If the owner of the property to be crossed by the proposed line, objects to the carrying out of the work, action shall be taken by the licensee to clear the objection as per the rules issued by the Government of Kerala, as provided in Section 67 and Section 164 of the Act or any other law for the time being in force.”

A consumer or an owner of a property should not be put to undue hardships or cause him inconvenience, by an electric line drawn to his neighbour, through his property, when there exists a separate pathway or passage that leads to the same neighbour's house and through which the party (neighbour) can avail the said electric connection. It is a fact that the consumer has every right to retain and enjoy the electric connection he has already obtained. But at the same time the consumer cannot demand that the electric service connection should be retained through the other's property alone, when he has his own passage or pathway leading to his house, through which it is possible to provide the same connection. It is understood from the version of the respondent that the electric line was drawn considering the inconvenience and objection raised by the other property owners. As per rules, it is the responsibility of the respondent to issue notice to the party and others (if required), and if the objection to carry out the proposed work is not sorted out amicably, the respondent has to file petition before the District Magistrate as per rules and get suitable orders and then act accordingly.

In this case, the respondent had not approached the District Magistrate for effecting the service connection through the disputed properties and when getting complaints from the appellant. This action of the respondent is quite irregular and against the rules.

The appellant has not submitted any deed regarding the ownership of the property but claimed that he is cultivating in the land for the last 50 years. It is pertinent to note that this Authority has no power to decide the issue of right enjoyed by the appellant regarding the ownership of the property through which the line drawn, hence it is not proper to admit the case as there comes some legality of civil rights.

**Decision:**

From the analysis done above and the conclusions arrived at, it is directed the respondent to look once again whether there is technical feasibility for shifting the line to the pathway/ boundary of the property of the appellant and the respondent shall inform his decision to the appellant within a period of 15 days from the date of this order.. If the appellant is

not satisfied with the decision of the respondent, he is free to approach the District Magistrate.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/098/2019/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri. C. M. Michael, Cheramel House, Kaithapara, Udumbannoor P.O., Thodupuzha, Idukki
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vazhathoppe, Idukki

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.