



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh & Telangana**

:: Present ::

C. Ramakrishna

Date: 02-09-2014

Appeal No. 150 of 2013

Between

Sri. J. Venkateswarlu, 10-41-9, Ramnagar, Visakhapatnam

... Appellant

And

1. The AE/Operation/Rajam, Srikakulam Dt.
2. The AAO/ERO/Palakonda, Srikakulam Dt.
3. The ADE/Operation/Rajam, Srikakulam Dt.
4. The DE/Operation/Srikakulam

... Respondents

The above appeal filed on 10-03-2014 has come up for final hearing before the Vidyut Ombudsman on 28-08-2014 at Visakhapatnam. The appellant, as well as respondents 1 to 3 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellant that title

transfer for the service connections bearing numbers 6151 and 1276 in his premises is not being done by the respondents on one pretext or the other. Per appellant, the said connections were fraudulently applied for and got long back by his brother by producing fake documents / no documents at all. Now, when he is seeking the transfer of the connections in his name, the respondents are asking for documents which do not exist.

3. The appellant stated in his appeal that the CGRF while disposing of the complaint before it did not take the petitioner's views into consideration; that the CGRF had passed an order without holding any hearing or inquiry; that the CGRF's order thus passed just by taking the respondent's views into consideration amounts to denial of reasonable opportunity and justice; that he had submitted an application for title transfer of service connection bearing number 6151 on 29-08-2011 in proper shape duly signed by the transferor (J. Krishna Rao) and transferee (J. Venkateswarlu); that the application was also acknowledged by the respondent ADE; that now the CGRF ordering for fresh filing of application again does not make sense and is not warranted; that in any case the respondent officers can only seek a fresh application from him only after returning the original application duly pointing out the deficiencies to be corrected, if any; that the respondent officers should not treat his title transfer case as any routine issue as Sri. J. Krishna Rao had obtained the service connections in the appellant's premises fraudulently without submitting any proof of ownership of the premises and without the appellant's consent; that the respondent officers are now saying that they cannot trace the application and the connected record of the service connections 6151 and 1276; that Sri. J. Krishna Rao, who obtained the connections fraudulently should never be considered as a legitimate transferor

and in the light of the legitimate owner (i.e., the appellant) submitting all the required documents to prove that the property belongs to him and he is the real owner of the premises, the requirement of obtaining J. Krishna Rao's signature on the title transfer application should be done away with; that the very fact that the respondent officers are mentioning the address of the premises as being in Srinivas Colony, Rajam while that is actually located at 6-21, Hospital Road, Rajam clearly shows that they had never verified the ownership documents of the property and have committed irregularities in the release of the connection in the name of Sri. J. Krishna Rao; that when he had submitted an attested copy of the original settlement deed dated 18-04-1973, expecting door numbers on the tax receipts issued by the local municipal authorities is not warranted, as the said authorities have been issuing tax receipts with assessment numbers but not door numbers; that asking him to submit a copy of the sale deed executed by Sri. J. Krishna Rao in favour of the appellant to prove that the property has been transferred to him by J. Krishna Rao is nothing but asking for a document which does not exist; that the SE, Operations, Srikakulam also had failed to understand that OS No. 6/2007 before the Court of the Junior Civil Judge, Rajam has gone in his favour as far back as 19-12-2011 and it granted a permanent injunction against his brother Sri. J. Krishna Rao in relation to this property; that the SE, Operation, Srikakulam and the ADE, Operations, Rajam are unnecessarily misrepresenting the facts before all higher authorities and are complicating the matter without ordering for changing of the title of the service connection in his favour; and that surprisingly the respondent officers are issuing bills for the service connection numbers 6151 and 1276 without mentioning the door numbers but are expecting the appellant to produce panchayat tax receipts mentioning the door numbers. The appellant finally

urged that the transfer of service connections bearing numbers 6151 and 1276 from Sri. J. Krishna Rao be ordered as he had obtained them in the premises belonging to the appellant fraudulently by bribing local electricity authorities. The appellant submitted copies of his appeal before the CGRF, the test report dated 14-03-2001, final judgment of the Court in OS No. 6/2007, letter dated 30-06-2011 issued by the ADE, Operation, the consumer history sheets for the two service connections in question, letter dated 01-11-2013 addressed to the appellant by the CGM/O&CS, APEPDCL and letter dated 31-10-2013 addressed to the appellant by the SE/Operation, Srikakulam.

4. A notice for hearing the matter was issued duly requiring the respondents to submit their written submissions in the matter. The respondent ADE filed his written submissions stating that Sri. J. Venkateswarlu, the appellant and his brother Sri. J. Krishna Rao have a dispute about their ancestral property consisting of an RCC slab building in Rajam Town; that two service numbers in question are existing in the name of Sri. J. Krishna Rao in the portion occupied by him; that the application for transfer of title filed by the appellant herein was rejected by the AE, Operation, Rajam on 06-10-2011; that there is no response from Sri. J. Krishna Rao for the information relating to the name transfer that is solicited from him on 27-08-2011; that as per the instructions dated 17-12-2009 by their superiors, for affecting a title transfer, both the transferor and transferee have to sign on the transfer application form with their photographs affixed and attested by a Notary and that as this is missing in the application filed by the appellant, the transfer of title is not being affected; that Sri. J. Krishna Rao had filed a case in CC No. 80/2012 against APEDPDCL in the District Consumer Forum, Srikakulam and obtained an order

dated 23-12-2012 directing the respondents to restore power supply to the two service connections in question; and that in view of the disputes involved in the immovable property between the brothers, they are not in a position to take an independent decision to register the application for transfer of title in the case. The ADE produced copies of the letter dated 27-08-2011 issued by him to Sri. J. Krishna Rao and also the directions of his superior officers dated 17-12-2009.

5. The appellant filed a detailed counter submission to the written submissions of the ADE enclosing copies of the letter dated 31-10-2013 written by the SE, Operations, Srikakulam, the letter dated 12-04-2014 written by the PIO, Rajam, written submission of the Addl. AE, Gopalapuram and test report of the AE, Rajam dated 14-03-2011 to prove his point. The appellant stated that the respondent's contention that the property in dispute is joint property is not correct; that his mother had executed a settlement deed in his favour on 18-04-1973 as the property was purchased by her in December, 1955 out of her own earnings; that hence it is neither joint nor ancestral in nature; that the respondent officers have failed to note that the Court of Junior Civil Judge, Rajam had decreed the property in his favour; that the respondents are deliberately misleading the higher authorities including this authority by falsely stating that the Hospital Road, Rajam is renamed as Srinivasa Colony, Rajam; that Sri. J. Krishna Rao in fact has a house in Srinivasa Colony in his wife's name Smt. J. Sarada Devi which has service connection number 5070, whereas service connection 6151 is located in Hospital Road; that the DISCOM authorities had miserably failed in their duty in so far as they have not even filled the columns of the Test Report dated 14-03-2001 properly; that the respondent officers have misled the

District Consumer Forum also by saying that they had disconnected the service connections 1276 and 6151 due to non-payment of bills while in fact they had disconnected the same due to the online complaint lodged by him to the effect that they services be disconnected as the title transfer application filed by him is pending; that the respondents' asking for certain information from Sri. J. Krishna Rao three years after the appellant filed for title transfer is nothing but wasting time; and that Sri. J. Krishna Rao cannot be called a transferor at all as he got the connections illegally without any documents whatsoever and therefore expecting the appellant to produce a no objection certificate from such an illegal transferor/owner is not warranted.

6. On an examination of all the material that is pressed into service by both the sides and after going through the written and oral submissions made during the hearings, this authority finds that the ultimate issue that needs to be decided in this appeal is whether or not the appellant is entitled to transfer of the service connections in his name.

7. Before going into the issue proper, it is necessary to examine the claims / assertions made by the appellant herein and the response of the respondents and give a finding thereon.

8. The assertion of the appellant that he cannot be expected to file a fresh application until and unless the respondents return the original transfer application filed by him on 29-08-2011 is not valid. Once an application is filed, it becomes the record of the respondents. As and when they find anything missing in the application, they have every reason to ask the applicants to make good the missing thing. What all is required in such cases

is a communique asking the appellant to make good the deficiency.

9. In so far as the appellant's contention that the present case should not be treated as any routine title transfer case and has to be treated on a different footing is found reasonable. Here is a case wherein the current owner of the service connections appears to have obtained the service connection without the full knowledge and consent of the real owner of the property. When the real owner of the property is now claiming transfer of the service connections, expecting him to produce a consent from the present owner of the service connection is not correct. More so, when it is evident that they are parties in dispute and it is not literally possible for the appellant to produce such a transfer application. Therefore, the appellant herein cannot be asked to submit a title transfer application duly signed by his brother who is ensconced in the service connections.

10. As for the contention of the appellant that the respondents had not verified the documentation work properly before releasing the service connections in favour of Sri. J. Krishna Rao is concerned, it is upheld. But to say that they have committed irregularities or a fraud is too much to say at the moment. Service connections are released on various grounds and in various situations. They keep changing from time to time. With the passage of so much time between the original date of release of the services, in the light of the fact that there is a limit on the number of years up to which a record of the service connection need be maintained, it is quite probable that the respondents are not in a position to produce all the documentation that is obtained by them at the time of the original release of the service connections. Ordering for an enquiry into the release of services at this stage

in time, will not perhaps serve any purpose. One of the services has been released in 1978 and the other is released in the year 2001. That being so, no explanation is forthcoming from the appellant as to the delay in raising the claim by him about the transfer of services in his name. Perhaps things were all hunky dory between the appellant and his brother then. They would have gone sour recently and hence the claim. Therefore, there is no need to order enquiry into how the service connections came to be issued in the first place. Suffice it to say that the respondents shall forthwith take appropriate steps to effect a transfer in the title of the service connections as ordered below.

11. As for the contention of the appellant that he is not able to produce the door numbers on the property tax receipts is concerned, it is upheld. If the property tax assessing authority does not mention the door numbers on the property tax receipt, the appellant cannot be asked to produce property tax receipts mentioning the door numbers. The respondents have not produced any proof / counter before this authority that the assertion made by the appellant is incorrect in any manner. Hence the assertion of the appellant in this regard is upheld as valid. Property tax receipt is good enough. It is not necessary that it should be mentioning the door numbers of the property in question. If the respondents, are suspecting the bonafides of the tax receipts produced by the appellant, nothing prevents them from launching an enquiry into their genuineness and take appropriate action.

12. As for the contention of the appellant that the respondents are asking him to produce documents which do not exist is concerned, it is also upheld. When Sri. J. Krishna Rao has never sold the property in question to the appellant, expecting the appellant to produce the sale deed executed by Sri.

J. Krishna Rao in favour of the appellant does not arise. This is stretching the rule beyond reasonableness and is a blind implementation of the rule without looking into its practicality. It is sad that even officers of the cadre of SE and the CGM, O&CS were expecting so.

13. The respondents' inaction after asking Sri. J. Krishna Rao to produce some information and sleeping over it later on does not speak good of the respondents' conduct. It's not explained by them as to why the requirement was not taken to its logical conclusion.

14. The appellant has to understand that the respondents are prevented from disconnection of the services by the District Consumer Forum. In any case, the appellant should be bothered more by the transfer of title of the service connections in his favour rather than bothering too much about whether or not the supply is disconnected. The stance of the respondents before the District Consumer Forum is certainly found fault with. It is not the non-payment of the bills which had resulted in the disconnection, as rightly held by the District Consumer Forum. They shall henceforth act in a reasonable manner and settle the matter in all fairness.

15. The appellant claims that he is the owner of the property and that the respondent officers had issued service connections in the name of his brother in spite of his brother not producing any ownership document for the property. The Court of the Junior Civil Judge, Rajam by its order dated 19-12-2011 had clearly held that the property belongs to the appellant herein. The appellant's brother had even submitted before that Court that he does not want to contest the case and that the suit may be decreed in the

appellant's favour. That being so, it is beyond dispute for the present, that the property in question belongs to the appellant, until and unless a counterclaim arises from Sri. J. Krishna Rao before a higher Court about the same and the respondents are made aware of it. As the respondents are not able to produce the old record relating to the service connection, it cannot be concluded whether or not Sri. J. Krishna Rao produced all the required documentation before obtaining the service connections in question. Therefore, the course that is open for the respondents is to issue a notice to Sri. J. Krishna Rao to file his objections as to why the appellant herein cannot be transferred the service connections within a definite time limit. If Sri. J. Krishna Rao files any objections, the same shall be examined thoroughly and a suitable finding arrived at based on the material produced before them. Once such an opportunity is given to Sri. J. Krishna Rao, the consequential action of transferring the service connections in the name of the appellant or retaining them in the name of Sri. J. Krishna Rao can be decided upon by the respondents. When a title transfer is thus affected, if at all, there is no need for the respondents to be bound by the prescribed procedures as the prescribed procedures had not envisaged a situation like the present one wherein the transfer of service connections is being sought based on claims and counterclaims over the property in question. As the Court has held that the property in question belongs to the appellant herein, there is no requirement of the transferor signing on the application of title transfer. But such a transfer can only happen only after giving a reasonable opportunity of being heard to the affected party i.e., Sri. J. Krishna Rao in the present case.

16. The SE, Srikakulam and the CGM, O&CS have erred in not noticing the

judgment of the Court of the Junior Civil Judge, Rajam. Had they noticed the judgement, they would have seen that the appellant herein is the owner of the disputed property. The SE and the CGM are also not correct in holding that the appellant herein had not raised an objection at the time of release of the service connection on 14-03-2001. The appellant herein cannot be expected to raise an objection without even intimating him that a service was about to be released in his brother's name. When the ownership of the property is in dispute and one of the claimants has come forward laying claim to the property, the only course open for the DISCOM is to issue a notice to the other party, take its objections and give a fact finding on the matter. This was not done properly at all in the present case by any one of the respondent officers nor their higher authorities.

17. In the light of the above observations, the issue raised is answered in favour of the appellant in view of the conclusive proof that the property belongs to him. The order of the CGRF in so far as it directed the appellant herein to submit an application duly signed by the transferor is struck down, on quite a few grounds. The first being that in view of the conclusive proof adduced by the appellant herein about he being the owner of the property, he need not submit any transfer application duly signed by the present person in whose name the connections are existing at the moment. Secondly, the CGRF had not followed the principles of natural justice in disposing of the appeal. It ought to have given a reasonable opportunity of being heard to both the appellant and the respondents. Taking their mere written submissions alone, without giving both of them an opportunity of countering the assertions made in the submissions made by them to the other party, is not correct and is bad in law. Lastly, when the issue translated to a claim about the property, expecting the present person ensconced in the property i.e., the service

connections in the disputed property, to sign on the dotted line is not correct.

For all these reasons, the order of the CGRF is struck down as bad in law.

18. Therefore, it is hereby ordered that:

- the respondent officers shall issue a notice, within 15 days from the date of receipt of this order, duly giving 15 days' time, to Sri. J. Krishna Rao in whose name the two service connections viz., 6151 and 1276 are standing presently, to prove his ownership over the property in view of the Judgment of the Junior Civil Judge, Rajam a copy of which was already enclosed to them by the CGRF while passing their order;
- within 15 days of their receiving a response from Sri. J. Krishna Rao, they shall take necessary action to transfer the service connections in the name of the appellant herein based on a proper examination of the objections, if any, filed by Sri. J. Krishna Rao;
- if the examination of the objections from Sri. J. Krishna Rao results in the appellant herein not getting the service connections transferred in his name, he shall approach the CGRF for redressal by filing a proper complaint; and
- all the process of calling for objections and giving a final finding on the issue shall be completed by the respondent officers within 45 days from the date of receipt of this order and a compliance report submitted by them to that effect.

19. This order is corrected and signed on this 2nd day of September, 2014.

VIDYUT OMBUDSMAN

To

1. Sri. J. Venkateswarlu, 10-41-9, Ramnagar, Visakhapatnam 530 002
2. The AE/Operation/Rajam, 33/11 kV Substation, Gopalapuram Section, Rajam 532 127, Srikakulam Dt
3. The AAO/ERO/Palakonda, Near Church, Palakonda 532 127, Srikakulam Dt.
4. The ADE/Operation/Rajam, Main Road, Rajam 532 127, Srikakulam Dt.
5. The DE/Operation/Srikakulam, Opp: Margadarsi Chitfunds, G.T. Road, Srikakulam 532 001

Copy to:

6. The Chairperson, CGRF, APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam - 530 013.
7. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.