

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 29-03-2010

Appeal No. 7 of 2010

Between

Smt. M.Jayaprada
H.No.8-3-231/A/276,
Sree Krishna Nagar,
Yosufguda, Hyderabad.

... Appellant

And

The Asst. Engineer / Operation / Yousufguda/APCPDCL/ Hyderabad
The Asst. Divisional Engineer / Operation / Ameerpet/APCPDCL / Hyderabad
The Asst. Accounts Officer/Operation/Banjara Hills/APCPDCL/Hyderabad
The Divisional Electrical Engineer / Operation / Erragadda/APCPDCL/Hyderabad
The Superintending Engineer/ Operation / Hyd (North) Circle/APCPDCL/Hyderabad

....Respondents

The appeal / representation dated 22.02.2010 received on 25.02.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 26.03.2010 in the presence of Sri Parikshit S/o. of the appellant, Sri Janardhan Reddy H/o of the appellant and Sri C.N.Hemachander, ADE/Op/Ameerpet, Sri S.Muraliah, AAO/Banjara Hills present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

Aggrieved by the order passed by the Forum in C.G.No.42/2009-10 of Hyderabad (North) Circle dated 11.02.2010, the appellant preferred this appeal dated 22.02.2010 received on 25.02.2010.

2. Sri M.Jayaprada filed a complaint before the Forum about the release of illegal connection with a separate meter to the tenant of her house by name Smt.Lalithamma during December 1993 and inspite of her request to take action, the respondents did not take any action in disconnecting the illegal connection. The complainant also claimed that she had applied for building regularization scheme by producing electricity bill as documentary evidence during 9/2003. Ultimately, she requested the Forum to verify the records and to order to disconnect the illegal service connection given to Smt. Lalithamma.

3. The respondents filed their written submissions and issued a notice to Smt.Lalithamma, the consumer of SC No. 5218, Category-I to produce proof of ownership of the premises and she produced some documents and receipts showing the payment of property tax since 1996 and produced GHMC notices and receipts.

4. The said Jayaprada is no other than her elder daughter, who was planning to capture the said property and she filed a suit in the City Civil Court, Hyderabad vide OS No. 149/2003 which was still pending and she requested the AE/Op/Yousufguda not to disconnect the service connection during pendency of the suit before the City Civil Court. The complainant was examined and she narrated all the facts stated in the complaint filed by her and stated that Smt.Lalithamma produced fake notary documents and they are not correct and inspite of her request to disconnect the service, the respondents have failed to disconnect the same and that she approached the Forum for redressal.

5. One Sri C.N.Hemachander, ADE/O/Ameerpet, was examined and that only after verification of ownership, the service connection was released in the name of Smt.Lalithamma and on the notice given by them, she represented that the suit is pending before the City Civil Court about the title over the property.

6. After hearing both sides and after considering the material available before the Forum, the Forum observed that it cannot adjudicate the matter as the case was pending before City Civil Court regarding the ownership of property and directed the respondents to decide the matter in accordance with the result of the City Civil Court. Aggrieved by the said order, the appellant preferred this appeal before this Authority questioning the same that the impugned order is erroneous and the same is not sustainable. It is also contended by her that Smt. Lalithamma was her tenant and she applied for new connection by submitting fake ownership documents and after coming to know the same, she approached the authorities, but the authorities did not make any effort to disconnect the same and finally, she requested the Forum to disconnect the service connection.

6. Now, the point for consideration is, “whether the impugned order, dated 11.02.2010, is liable to be set aside? If so, on what grounds?”

7. It appears that the appellant has submitted electricity receipts and a copy of the Agreement of Sale to substantiate her claim and the respondents contention is that the said Smt.Lalithamma has filed some documents showing her ownership of the property and basing on the documents, the service connection was issued in her name. As per clause 5.2.2 the requisition for supply of electricity can be made by the owner/occupier of the premises for which electricity is required. The appellant claims that the said person is tenant but the tenant claims that she is no other than the mother of Jayaprada and she is the owner of the property. It is clear from the record that OS No. 149/03 is pending in the City Civil Court about the title over the property. When an occupier approaches for supply of electricity, the very occupation is sufficient for the department to release supply, and there is no possibility to disconnect the same by the respondents, in particular, when a suit is pending before the City Civil Court. This authority or the Forum has no right to encroach upon the powers of City Civil Court which is pending before the authority to decide the title over the property. It is for the appellant to approach the City Civil Court for expeditious

disposal by representing the same with regard to regularization of the building by GHMC, when there is defective title or when there is no document of title, there is no possibility of regularization by GHMC. However, it is not for this authority to decide on the aspect of regularization, the appellant has to move the City Civil Court by taking appropriate steps for expeditious disposal. The suit itself is of 2003 and a representation can be made by the appellant for expeditious disposal by the City Civil Court. Furthermore, the proceedings initiated in the absence of Smt.Lalithamma who is the effected party is not sustainable under law.

8. The above said discussion clearly discloses that there is no possibility to decide the issue in particular when the matter is taken cognizance by City Civil Court with regard to title over the property.

9. I do not find any reason to interfere with the same and the appeal preferred by the appellant is liable to be dismissed.

10. In the result, the appeal is dismissed. No order as to costs.

This order is corrected and signed on this day of 29th March 2010

VIDYUT OMBUDSMAN