

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated 17 -12- 2011

Appeal No. 68 of 2011

Between
Sri K.Vasudeva Rao
Karukola Ice and Cold Storage
Kasibugga – 532222
Srikakulam Dist

... Appellant

And

1. Asst. Engineer / Operation / EPDCL/ Kasibugga
2. Assistant Divisional Engineer / operation / EPDCL / Palasa
3. Divisional Engineer / operation / EPDCL /Tekkali

....Respondents

The appeal / representation filed on 26.09.2011 against the CGRF order of APEPDCL (in CG No.99/2011-12 dt.27.08.2011). The same has come up for hearing before the Vidyut Ombudsman on 30-11-2011. Sri.K.Vasudeva Rao, appellant present and Sri S.Masilamani, DE/O/Tekkali, and Sri S.Madhusudana Rao, ADE/O/Palasa on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The petitioner filed a complaint against the Respondents for Redressal of his Grievances and stated as hereunder:

“He has filed a complaint stating that Electrical service connection had been released in his Patta Land and requested the Forum to do Justice.”

2. The 1st respondent has filed his written submission as hereunder:

“As could be seen from the representation of Sri K. Vasudeva Rao, there are some iner-see disputes between Sri P. Mohana Rao, Sri G.Someswara Rao and Sri

K.Vasudeva Rao petitioner regarding the property. He could have objected earlier the department by way of representation while releasing the above service Nos. In fact before the releasing of services, the consumers furnished proof of owner ship and other material papers for releasing early services. In accordance to the terms and conditions of the department and also the electricity law are in force the services were released.

The supply of electricity service to the consumers is only an amenity and it does not confer any right of title over the property. The department is at liberty to provide amenity as long as consumer pays the electricity consumption charges.

The above services disconnected and the same was intimated to the Divisional Electrical Engineer, Operation, Tekkali. Simultaneously the above consumers were addressed to produce the proof of ownership. Accordingly the consumer have submitted the relevant documents and also approached the Chairman and Managing Director, APEPDCL, Visakhapatnam. As per the instructions of the Divisional Elecl. Engineer, Operation, Tekkali, the above services were reconnected and the same was intimated to Sri K. Vasudeva Rao.

Now, Sri K. Vasudeva Rao has approached the Chair Person, CGRF, Visakhapatnam. The proof of ownership produced by the above consumer along with copies of above cited references are herewith submitted”

3. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

“The Forum hereby directed the complainant that this case cannot be taken up as per clause No.4.7 there is a dispute between the complainant and others.

Clause No.4.7:-

If the subject matter of the complaint is shown pending consideration before any court, tribunal or arbitrator or any other Forum or a decree or award has already been passed by a competent court of law, the Forum can forthwith reject the complaint.

With the above direction the CG No.99/11-12 is disposed off with no costs”

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that there is no dispute between himself and Polaki Mohana Rao and G.Someswara Rao. Since their sale deed properties are in Survey No.232/2A1/A and 16-194A are different from the properties in survey no. 232/2A1/B and 2A1/C and never claimed his suit schedule properties so civil dispute does not arise. Services were in the properties of karukola Kumaraswamy/Narasimhamurthy and Lingamurthy as per Tahsildar identification of the service. Since the services were in their sale deed as it amounts to trespass and liable for prosecution, the services were disconnected once and subsequently reconnected without any orders. The

department given services to others in his schedule properties which were in the civil suit from 1988 onwards till to-date and it amounts to contempt but not against to clause 4.7 and requested this authority to examine all relevant lawful facts and issue necessary orders at the earliest.

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

6. The appellant himself appeared before this authority and submitted that the said properties are no way connected with service connection issued and that he is the owner of the said schedule property. In that property, the service connections were given to some others and this fact has been once noticed by Tahsildar disconnected and again reconnected without any reasons and the Forum has failed to appreciate all these aspects and dismissed the complaint filed by him.

7. Whereas, the respondents are represented by Sri S.Masilamani, DE/O/Tekkali, and Sri S.Madhusudana Rao, ADE/O/Palasa and stated that the properties were in possession and enjoyment of the consumers and after verifying the documents the service connections were given this was also accepted by the Tahsildar by his report and the Forum has rightly considered and the appeal preferred by the appellant is liable to be dismissed and there are no grounds to interfere with the impugned order.

8. It is clear that there is a scramble with regard to property but litigation is not between appellant and other two persons. Whereas the service connections are in the names of above said two persons and the properties are in their possession. The contention of the appellant is that the properties are in his land and he has filed a suit and the matter is pending and the two service connections were given without any title to the properties to the said two individuals. The complainant ought to have filed a proceeding against the said two persons for recovery of possession and to disconnect the service connections. So far as recovery of possession is concerned the respondents are not competent persons to order recovery of possession and to decide title over the properties. The documents which were filed before this authority

have to be verified that too on physical verification and basing on that follow up action they can disconnect service connection.

9. It appears that the properties are also constructed with the approval of the plans by the Municipality. The duty of the respondents is to verify the documents pertaining to the lands and ownership and disconnect the service connection if they are in the lands of the appellant. So there is no dispute with regard to the identity of the property. The only thing that is claimed by the appellant is that the service connections are given to others in his land. This has to be ascertained through a competent surveyor.

10. In the light of the above said discussion, it is necessary to survey the properties once again either with the help of a Town surveyor or with the help of a Taluk surveyor at the expenses of the appellant and the respondents are directed to assist the appellant in the said process of taking the assistance of surveyor and act accordingly as pointed above.

11. In the result, the appeal is disposed with a direction to survey the properties once again either with the help of a Town surveyor or with the help of a Taluk surveyor at the expenses of the appellant and the respondents are directed to assist the appellant in the said process of taking the assistance of surveyor and act in accordance with the said report. This finding or the survey report can never be used as a piece of evidence in any civil proceedings since the cause of the complaint is different and for a limited purpose.

This order is corrected and signed on this day of 17th December 2011

VIDYUT OMBUDSMAN