



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi**

:: Present ::

N. Basavaiah, B.Sc. B.L.

Date: 31-12-2021

Representation No.35 of 2021-22

Between

Balaga Seetharam, S/o. Late Akkayya, Medical Practitioner, Cultivation & Business, Susaram (V), Priygraharam (PO), Polaki (M), Srikakulam Dist –532 421
... Complainant

And

1. The Assistant Engineer / Operation / Narasannapeta-Town/APEPDCL, Srikakulam District – 532 421.
2. The Assistant Divisional Engineer / Operation / Narasannapeta / APEPDCL, Operation Sub-Division, Narasannapeta, Srikakulam – 532 421.
3. The Divisional Engineer / Operation / Tekkali / APEPDCL, Operation Division Tekkali, Srikakulam – 532 201.
4. The Superintending Engineer / Operation / Srikakulam
5. Raavi Prasad, S/o. Late Seetharamayya, R/o. Bandi Veedhi, Narasannapeta Town, Srikakulam District
...Respondents

ORDER

The above representation came up for final hearing, by way of Video Conferencing, before me at the office of the Vidyut Ombudsman, Vijayawada on 27-12-2021. The complainant, the respondents 1 to 5 and Sri P. Anand Seshu, advocate for the fifth respondent, were present. Having considered the representation and the submissions of the parties present, the Vidyut Ombudsman passed the following:

1.Having obtained an order on 26-11-2021 in *W.P.No.27775 of 2021 against the order of this authority returning the representation on the ground that it was filed not by the complainant in the complaint filed before the Forum*, the 5th respondent re-presented the returned representation against the order of the **Forum for Redressal of Grievances of the Consumers in Eastern Power Distribution Company of A.P Limited, Visakhapatnam passed in C.G.No.124/2020, on 22nd day of January, 2021, directing the licensee to provide a new connection to the complainant.**

2.The facts leading to file this representation are as follows: The complainant, Sri Balaga Seetharam, claiming to be the absolute owner and possessor of the premises, a newly constructed RCC terraced commercial building consisting of ground and first floors in Survey No.96/4 of Gottipalli Revenue Village in Narasannapeta Town, applied to the first respondent for supply of electricity to the above premises on 18-09-2020 with all necessary documents, but the first respondent returned the above application on 21-09-2020 with an endorsement that the 5th respondent objected to give a new connection to the above premises on the ground that a civil dispute is pending. The complainant prays to direct the respondents 1 to 4 to release power supply to the above premises..

3. The 1st respondent filed his statement stating that an electrical connection in the name of 5th respondent had been released with SC No.132638N301013429 under commercial category for construction of building on 14-08-2019 and was disconnected as per the request of the above consumer and that as the 5th respondent objected to give electric supply to the complainant on the ground that the above premises belongs to him and as the complainant as well as the fifth respondent submitted proof of ownership documents separately, he rejected

the request of the complainant on 21-09-2020 as per SOP norms and asked the complainant to produce documents as per the legal opinion.

4. The case of the 5th respondent, in brief, is that under the registered Sale agreement cum GPA vide document No.758 of 2009 dated 06-05-2009 and the Sale Deed dated 15-04-2014 vide document No.503 of 2014, he got Ac.1.38 cents of vacant land including the subject matter of the shop site in Survey Nos.96/1, 96/4, 96/5, 96/6 at Gottipalli Village, Narasannapeta Mandal, Srikakulam District, that civil and criminal cases are pending between him and the complainant, that he got one shop room measuring 45 x 55 feet in Survey Nos.96/1 and 96/4 constructed by obtaining deemed permission from the Hon'ble High Court of A.P. in W.P.No.32780 of 2018 for construction, that the electrical authorities had released an electrical supply connection to the shop room bearing SC No.132638N301013429, that he is the absolute owner and possessor of the said shop room and other vacant sites in Survey Nos.96/1, 96/4, 96/5 and 96/6 of Gottipalli Village and that he objected to give a new connection to the complainant. He also alleged several facts not so relevant for the purpose of this case. He prayed to dismiss the complaint.

5. Exs.A1 to A14 and Exs.B1 to B29 were marked. After considering the material available on record, the Forum directed the respondents 1 to 4 to release the electrical service connection for the subject matter of the premises. Not satisfied with the above order, the 5th respondent re-presented the returned representation in pursuance of the order of the Hon'ble High Court in the above writ directing this authority to restore the representation to file and to decide the issues raised by the petitioner therein, on merits, after hearing all the stakeholders, including the unofficial respondents and pass appropriate orders on

merits. Now, the 5th respondent in his representation prays this authority to set aside the above order of the Forum and pass orders to process his pending application with the respondents for electricity connection and to dismantle the service connection given in the name of the complainant in pursuance of the order of the Forum.

6. The complainant submitted the facts of his case claiming ownership and possession over an extent of Ac.0.09 cents only, relied upon the judgments and decrees passed by trial court in suits filed for permanent injunctions and supported the order of the Forum. He further submitted that he leased out the premises on 02-10-2020 to one Rajesh after getting the ground floor and first floor constructed between 2019 and September 2020. The third respondent on behalf of all the respondents 1 to 4 submitted the facts as per their case as stated supra. He further submitted that they took no objection letter from the tenant, Rajesh, at the time of the fifth respondent surrendering the electricity service connection on 15-09-2020. The counsel for the fifth respondent made submissions as per the case of 5th respondent as stated supra. He further stated that the Forum has no jurisdiction to decide the title dispute and as such, the order of the form may be set aside and that this authority can direct the licensee to disconnect the service connection released in pursuance of the order passed by the form. He relied upon two decisions. He further submitted that the clause 5.2.3 of the GTCS is a hurdle to release a new connection in favour of the complainant.

7. The following point is framed for consideration:

Whether the reliefs sought for by the fifth respondent in his representation can be granted?

8. Point: The complainant is mainly relying upon the trial court judgments and decrees granting permanent injunction in his favour against the 5th respondent and others with respect of vacant site, but in my view, they cannot now be relied upon as the judgments and decrees rendered by the trial court have not become final in this case. Considering the submissions made by the complainant that he leased out the premises to one Rajesh and the submission made by the 1st respondent on behalf of respondents 1 to 4 that they took no objection letter from the said Rajesh at the time of 5th respondent surrendering the electricity connection on 15-09-2020, we can easily say that neither the complainant nor the 5th respondent is in actual occupation of the disputed premises. The 5th respondent is claiming ownership over the disputed premises on the basis of a registered sale agreement cum GPA dated 06-05-2009. It is not a regular sale deed. Though there is a title dispute between the complainant and the 5th respondent with respect to the disputed premises in question, either the complainant or the 5th respondent did not file a suit for declaration of title over that premises. In the absence of any decree rendered by the civil court finally declaring the title of the complainant or the 5th respondent, it is not possible for me to say whether the complainant or the 5th respondent is the owner of the premises in question. Either owner or occupier is alone entitled to apply for supply of electricity to the licensee as per Section 43 of the Electricity Act, 2003. The requirement under the above section is not fulfilled. The complainant as well as the fifth respondent is claiming ownership as well as possession over the premises in question. The dispute between the parties is purely civil in nature. The dispute as to the ownership and the possession over any property can be determined only by civil courts, and this authority has no Jurisdiction to decide

the above dispute. I have no jurisdiction to set aside the order of the Forum or to look into the order of the Forum as the Hon'ble APERC in its order dated 02-03-2021 stated that neither the Electricity Act, 2003 nor the Regulation No.3/2016, envisages the institution of Vidyut Ombudsman as an appellate authority over the Consumer Grievances Redressal Forum of a Discom and is an institution having coextensive jurisdiction for redressal of consumers' grievances. The advocate for the fifth respondent didn't quote any provision of law or cite any decision supporting his submission that this authority can direct the licensee to disconnect the service connection given to the complainant in pursuance of the order passed by the Forum. In ITC Ltd. Vs Forum for Redressal of Consumer Grievances of APCPDCL [(2011) 3 ALT 611], relied upon by the advocate for the fifth respondent, on a complaint filed by one Susheel Kumar Kanodia alleging that his property in survey No.392 is used for extending supply to the ITC Ltd, the Forum directed the licensee to disconnect the service connection given to the shed in survey no.384 belonging to the ITC Ltd. and for removal of overhead line erected through survey no.392. ITC Ltd filed a writ stating that no part the property of Susheel Kumar Kanodia is used for laying the overhead lines or installing the meter. His Lordships observed and held in that decision that the dispute between the parties is purely civil in nature and is liable for adjudication by a competent court of civil jurisdiction on the basis of the evidence to be adduced by both parties, that the Forum, which is constituted for redressal of grievances of consumers of the licensees arising in course of supply of electricity is totally denuded of its jurisdiction to resolve a dispute of the nature raised by Susheel Kumar Kanodia and that indeed, by directing the respondent no.2 to disconnect, remove and shift the lines, the Forum arrogated to itself the power of

a civil court. The above observation made by His Lordships is sufficient to hold that the 5th respondent is not entitled to any relief in this case. The above decision cited by the 5th respondent is helpful to some extent regarding jurisdictional aspect but is against the relief sought for by the 5th respondent. In another decision, Karingula Narasimha Reddy Vs Consumer Grievances Redressal Forum of Northern Power Distribution Co. of A.P. Ltd. and others [(2016) 1 ALT 11], cited by the counsel for the fifth respondent, His Lordship explained the definition of 'complainant'. The submission of the counsel for the 5th respondent touching clause 5.2.3 of the GTCS is also equally applicable to the 5th respondent. The licensee did not give connection to the complainant on the basis of objection raised by the fifth respondent, and it gave connection in pursuance of the order passed by the Forum. We cannot find fault etc., with the licensee. To attract the meaning of "grievance" given under rule 2.7 of the Regulation No.3/2016, it is to be shown that there was any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance or failure of performance of a duty under the Act or the Reform Act or the Rules or the Regulations made thereunder or any policy direction or orders of the Commission or any other law for the time being in force, by the distribution licensee, by which a complainant is aggrieved. The material on the above aspect is lacking in this case. So, I am of the view that the grievance as alleged in the representation does not come within the meaning of the word 'Grievance' given under the clause.2.7 of the Regulation No.3/2016. For the above reasons, I am of the opinion that the 5th respondent is not entitled to any relief claimed by him in his representation that this authority can't grant any one of those reliefs, and that the representation cannot be upheld and is liable to be dismissed. The point is, thus, answered.

9. In the result, I dismiss the representation made by the 5th respondent. No costs.

A copy of this order is made available at www.vidyutombudsman.ap.gov.in

This order is corrected and signed on this the 31st day of December, 2021.

**Sd/- N. Basavaiah
VIDYUT OMBUDSMAN, AP**

To

1. Balaga Seetharam, S/o. Late Akkayya, Medical Practitioner, Cultivation & Business, Susaram (V), Priygraharam (PO), Polaki (M), Srikakulam Dist – 532 421
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5. The Superintending Engineer / Operation / Srikakulam
6. Raavi Prasad, S/o. Late Seetharamayya, R/o. Bandi Veedhi, Narasannapeta Town, Srikakulam District

Copy To:

7. The Chairperson, C.G.R.F., APEPDCL, P&T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam – 530 013.
8. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.