

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/055/2022**(Present: A. Chandrakumaran Nair)****Dated: 27th October, 2022**

Appellant : Smt. Thankamani. K.P.,
"Chaithanya",
Kottinadath, Merikkunnu P.O.,
Kozhikode Dist. 673 012

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kakkodi, Kozhikode Dist.

ORDER**Background of the case:**

The appellant is having land property under the Kakkodi Electrical Section in Kozhikode Dist. with 'Thandaper' 1504 and paying the land tax for an area of 1.45 acres. The respondent has erected electric posts without appellant's consent and the line is crossing her property. Three posts were erected around six months before for drawing service connections to the neighbouring houses of the appellant's property. There is only a pathway for the neighbours and not a proper road given by the appellant. This is unauthorized and illegal, which makes hindrance to the cultivation in the land. The posts and the lines are to be shifted from appellant's land. The appellant has approached the CGRF-NR and the CGRF-NR ordered that the boundary of the land is to be fixed and earmarked and then apply to KSEBL Section Office for shifting the line. The shifting will be done on paying the estimate amount to KSEBL.

Aggrieved by the decision of CGRF(NR), the appellant filed the appeal petition to this Authority.

Arguments of the appellant:

The order of CGRF Kozhikode is not according to the facts and as such not legally sustainable.

The respondent's argument that there is no shifting or renewal of the poles in recent time in the appellant's land is incorrect whereas the posts were shifted and erected in appellant's land to maintain the line as it is. This was not considered by the CGRF-NR.

CGRF-NR's decision that after proving the ownership of the land and remitting required charges for shifting the posts, which was erected without appellant's knowledge or consent, is unlawful. Hence, the 3rd decision of CGRF-NR to bear the expense for shifting the posts by the appellant is also unlawful.

CGRF-NR had not taken any action to prove the ownership of the land and as such the 2nd decision of the order is not sustainable.

The appellant reiterated to mention that some of the posts only erected recently and most of the posts were erected during 1994 for giving electric connection. But, CGRF views in this matter is against factual position.

Nature of relief sought

- 1) Direct the licensee to shift the electric post from appellant's land at the cost of Licensee or the consumers who are availing the benefit.

Arguments of the respondent:

The said land of the complainant is under the boundary of Electrical Section, Kakkodi. As per the inspection conducted by the respondent in the premise, no signs of pole shifting are noticed and hence, it is reporting that, the complaint raised by the appellant is not factual. The appellant, by filing this complaint before the SEO, is trying to resolve some disputes with the appellant's land boundaries. As per the local inquiries conducted, it is known that, the appellant has registered a case against nearby land owners in connection with her land boundary disputes.

As per the office records verified, no shifting or renewal of the poles have been done for the poles stated in the complaint in recent times. Any person inspecting the site can understand this fact.

The said poles and lines are not creating any damage or safety issues in the premise as stated in the complaint. As per the records, this line is found to be drawn to effect service to consumer 6177 on 08/10/1994.

There is no boundary marking on the land of appellant and hence, it is not possible to say that the electric pole is located on the road or in appellant's land. Without demarcating the appellant's premises, a final decision can not be taken on this matter.

The respondent requested to uphold the order being passed by the CGRF Northern Region, Kozhikode and to dismiss the petition filed by the appellant.

Comments of the appellant on the response of respondent

The appellant has not filed suit against nearby land owners, in connection with their boundary disputes, but filed suit against the consumer of the electricity, who is claiming that the electric pole is situated in public way.

It is incorrect to say that there is no shifting or renewal of the poles in recent time.

It is also incorrect to say that the poles and lines are not creating any damage or safety issues in the premises as stated in the complaint. Due to the erection of electric poles in appellant's property the consumer No.6177 is trying to construct a new road through appellant's property by interpreting that the electric poles are fixed in public way. Due to the injunction order from the Civil Court, they are restrained to do so.

It is also incorrect to say that there is no boundary marking on the land of appellant and hence it is not possible to say that electric pole is located on the road or in her land. There is specific demarcating line. The adjacent property is lying in higher level. It is pertinent to note that the respondents themselves have an observation that whether the pole is located on the road or in her land.

Analysis and findings:

The hearing of the case was conducted on 12-10-2022 in the Court Hall of Consumer Grievance Redressal Forum, Northern Region, Kozhikode. The appellant Smt. K.P. Thankamani attended the hearing and Sri. Anand. T.M., Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kakkodi attended the hearing from the respondent's side. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant is the owner of the 1.45 acres of land and she is residing away from this land. A pathway of 2 feet wide has given for neighbours to walk to their house through the property of the appellant. There is no proper physical boundary marking for this land and hence, it is difficult to demarcate the land and pathway. The pathway is not a public road. As per the respondent, no shifting or re-erection of poles were done in the recent times. There is a civil case filed in the Munsif Court 1 of Kozhikode vide No. 05/380/2021 against neighbour for an order to prevent them in encroaching the land of the appellant to widen the pathway. The case is pending for the decision.

During the hearing, the respondent has mentioned that there is no physical boundary for the land. If the boundary is properly demarcated physically in the land by the appellant and then found that the line is crossing her property, the same will be shifted at the cost of Licensee. The respondent also informed that when the ABC conductor is available in the KSEB Section, one span which is crossing the land will be converted into ABC conductors.

Decision: -

From the analysis of the arguments of appellant and respondent and the hearing, the decision is taken as follows:

- 1) The one span of line which is crossing the property shall be converted into ABC conductors on getting the ABC conductors in stock.
- 2) The ownership of property is to be established by settling the disputes, if any.
- 3) The boundary of the property is to be demarcated in ground by the appellant.
- 4) On demarcating the physical boundary, if the line/posts are inside the property of the appellant, the same is to be shifted at the cost of Licensee.
- 5) The order of Consumer Grievance Redressal Forum-NR is modified accordingly.

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

ELECTRICITY OMBUDSMAN

P/055/2022/_____ dated _____.

Delivered to:

1. Smt. Thankamani. K.P., "Chaithanya", Kottinadath, Merikkunnu P.O., Kozhikode Dist. 673 012
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Kakkodi, Kozhikode Dist.

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, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Gandhi Road, Kozhikode