

**THE STATE ELECTRICITY OMBUDSMAN**

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APPEAL PETITION NO. P/089/2016

(Present: V.V. Sathyarajan)

Dated: 17<sup>th</sup> March 2017

Appellant : Sri. P.V. Mathew  
Plamparambil,  
Thrikodithanam P.O.,  
Changanacherry, Kottayam.

Respondent : The Assistant Executive Engineer,  
KSE Board Limited,  
Electrical Sub Division,  
Thengana,  
Kottayam.

**ORDER****Background of the case:**

The appellant, Sri P.V. Mathew, is a consumer under Electrical Section, Thrikodithanam. The appellant's case is against the non removal of electric line drawn through his property for providing service connection to three houses. It is alleged that the line was drawn through his property without his knowledge and consent. Against the above action on the part of respondent, the appellant approached the Hon'ble Commission which was disposed of with a direction to file a petition before CGRF. Accordingly, the appellant filed a petition before the CGRF, Kottarakkara and the Forum is of the opinion that further interruption is not required until the disposal of OP filed by the appellant in the Munsiff Court, Changanacherry and the Forum dismissed the petition vide order in OP No. 160/2016 dated 19-10-2016. Feeling aggrieved against the order of CGRF, the appellant has filed the appeal petition before this Authority.

**Arguments of the appellant:**

The main contentions of the Appellant in the Petition are the following: -

The appellant is not satisfied with the CGRF order and hence this appeal has been filed highlighting the following grounds and the relief sought for. The appellant submits that the order of CGRF is incorrect and not considered all aspects of the case raised by him. The appellant alleges that the respondent has drawn the electric line illegally through his property without his consent and knowledge. These overhead lines were drawn by passing through 150 metres and by installing three posts in the property of the appellant. About 40 bamboo trees in the property were cut and removed for drawing the line. It is also alleged that as a part of touching clearances many trees were being cut down by the respondent.

According to the appellant, the findings in the order of the Forum that two additional connections were effected to two houses after giving connections to three houses in 2008 is not correct. These two connections were given years back 2008. The consumer number of Sri Dinesan is 9919/2005 and proves the findings as wrong. There was possibility to give connections to the other three houses by drawing a service wire as in the case of other two connections without drawing the line through the property of the appellant.

The local people were trying to widen the footpath leading to their houses through the property of the appellant, which caused the filing of a civil case and this case pending is not related to the drawal of electric line. A civil case which not directly relates the relief requested in this subject matter is not a sufficient cause to deny justice by the Forum. The appellant is a pensioner, aged 80 years and residing with handicapped daughter. The appellant feels vengeance on the part of officials of KSEB and injustice done to him, since he had preferred complaints against the officials and he also alleges partiality and bad intention on the part of KSEB.

**Arguments of the respondent:**

The appellant has filed a complaint in the above said grievance before the Hon'ble CGRF, Kottarakkara and the content was examined in detail by the Forum. The Hon'ble Forum has dismissed the case due to his absence and lack

of interest of the appellant. It is also submitted that an OH line was constructed across the lower portion of the property of the appellant in 2008 under People Participation Programme of the Thrikodithanam Grama Panchayath. The cost of the construction was borne by the Grama Panchayath for the interest of the local people of that area. This work had been done for the energisation of a portion of Rajeev Gandhi Colony, Kilimala. This construction was carried out over the footpath leading to the colony's southern side. There were electric connections existed on the Northern side of the Colony and the posts were situated on the private land. The land owners objected the extension from their property, hence the request of the consumers was considered by the Panchayath and remitted the amount.

The OH line across the property of the appellant was constructed as per the request of the Grama Panchayath, Thrikodithanam and following electric connections were effected on the line.

SI. No	Name of consumer	Con. No	DOC	Construction Details
1	Binoy Babu, Olassampampil House, ThrikodithanamP.O.	12930	24.01.2012	Weatherproof wire-32m
2	Kannamma Babu Thekkenattu House, ThrikodithanamP.O.	13606	21.11.2013	Weatherproof wire-30m
3	Jagathamma Puthovelil House, ThrikodithanamP.O.	11392	29.03.2008	Weatherproof wire-10m
4	Shylaja Rajappan Palathra House, ThrikodithanamP.O.	11391	26.03.2008	Weatherproof wire-28m
5	Mohanan Ganapathisseril House, ThrikodithanamP.O.	11395	06.03.2008	Weatherproof wire-12m

The cost of the construction was borne by the Grama Panchayath and any objection raised at the time of construction can cancel the project of the Grama Panchayath. It is heard that the appellant permitted the erection of poles and drawal of line at his property on 2008. Later, on 2015, a group of people residing at Southern side of the Kilimala Rajeev Gandhi Colony were

tried to widen the footpath existed on the property of the appellant. Then the appellant filed an OP No. 79/15 before the Hon'ble Munsiff Court, Changanacherry and attained an IA 342/15 against Sri. Mohan Ganapathisseril and Sri. Dinesan Kuzhithakadiyel on 02-11-2015.

The construction of the OH line across the property of the appellant was carried out on 2008 period and civil case of encroachment of property was filed on 2015. Hence, any conspiracy action had been taken by the KSEB Ltd. against the appellant is baseless. The appellant had not claimed that he lodged any complaint at that time of execution of the line.

No complaint since been taken up even after a lapse of 7 years of the construction of LT line across the property. It may purposefully generate for support the civil case is being existing before the Hon'ble Munsiff Court, Changanacherry. The Final Orders may pass after considering that the matter was under the consideration of the Judiciary and Local Panchayath authorities. Hence, the contentions raised by the appellant are baseless, malafide and is liable to be dismissed. So it is humbly requested that the request of the appellant may be dismissed in regard to the narrations as above.

### **Analysis and Findings:**

The hearing of the case was conducted on 27-02-2017 in my chamber at Edappally and the appellant's side was represented by Sri P.V. Mathew and the opposite side by Sri Biju Prince Abraham, Assistant Executive Engineer, Electrical Sub Division, Thengana and they have argued the case, mainly on the lines stated above. On perusing the appeal petition, counter statement of the respondent, the documents filed, and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the final decisions thereof.

The factual matrix of the case reveals that when there is a need to give supply to nearby 3 consumers, the appellant without any hesitation permitted the respondent to draw the line through his property. Now there is availability of an alternate route for giving supply to those consumers without disturbing the appellant's peaceful enjoyment of his property. There is no justification on the part of respondent to deny that advantage to the appellant that too charging

the expenses if any from the appellant for shifting the overhead line from his property.

Regulation 95 of Supply Code, 2014 deals with the procedure for shifting the electric line or electrical plant of the licensee which reads as **“(1) The owner of the land or his successor in interest who has given right of way or the construction of an existing electric line or electrical plant over, under, along, across in or upon the said land, may apply for shifting the electric line or electrical plant to any other portion of his land for genuine purposes.**

**(2) The application for shifting the electric line or electrical plant shall be submitted in the local office of the licensee.**

**(3) On receipt of the application the licensee shall inspect the site and assess the technical feasibility of the proposed shifting.**

**(4) The application for shifting an electric line or electrical plant shall be granted only if:-**

**a) The proposed shifting is technically feasible; and**

**b) The owner of the land or his successor in interest gives consent in writing to shift the electric line or electrical plant to any other persons of the land or to any other land owned by him, or any alternate right of way along any public path way available for shifting the electric line and the electrical plant; and**

**c) The applicant remits the labour charges required for shifting the electrical plant.**

**(5) The licensee shall shift the electric line or electrical plant if the conditions specified in sub regulation (4) are complied with by the applicant”.**

During the hearing the respondent stated that the existing overhead line passing through the appellant's property can be shifted. But the appellant has not made any request so far. As the proposed shifting of existing line is technically feasible, this Authority is of the view that the appellant is entitled to shift the overhead line passing through his property for which an application for shifting has to be submitted by the appellant.

**Decision**

In view of the above discussion the appellant is directed to submit an application for shifting the overhead line in the local office of the licensee. The respondent is directed to shift the overhead line passing through the appellant's property after giving supply to the existing consumers by alternative methods. It is made clear that labour charges required for shifting the overhead line only be recovered from the appellant after giving prior intimation of the estimate.

The order of CGRF in OP No. 160/2016 dated 19-10-2016 is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/089/2016/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. P.V. Mathew, Plamparambil, Thrikodithanam P.O., Changanacherry, Kottayam.
2. The Assistant Executive Engineer, KSE Board Limited, Electrical Sub Division, Thengana, Kottayam.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.