

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/064/2022**(Present: A. Chandrakumaran Nair)****Dated: 17th November, 2022**

Appellant : Sri. Kiran Balu. U.V.,
Unnikkadam Veedu
Palath P.O.,
Kakkodi,
Kozhikode Dist.

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

ORDER**Background of the case:**

The appellant is the consumer of the Licensee under the Electrical Section, Kakkodi in Kozhikode Dist. The appellant is complaining about the connection given to his neighbour without his consent. Shri. Babu, who is a resident of ward 10 of Chelannur Panchayath has given consent to build an open public well in his land. The claim is that the land belongs to him and he is remitting tax for this property and KSEBL has drawn the line crossing the property without consent. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Northern Region, Kozhikode and CGRF (NR) vide order dated 29-06-2022, ordered that CGRF(NR) is agreed with the order issued by the ADM. Aggrieved by the decision of the Forum, the appellant filed appeal petition before this Authority.

Arguments of the appellant:

The appellant's father had given consent to build an open public well in their land by providing required land. However, the appellant is continued to remit tax for this property where the well was constructed. Appellant's father had

sold 3 cent land to one party which was later resold twice and presently Sri. Prasoon is the custodian of the property. An electric connection was given to the house of Sri Prasoon through the encroached land of appellant's father's property without consent.

The appellant was given complaint to KSEBL and other connected authorities against the illegal connection given to the neighbour without consent. Later, the appellant approached CGRF (NR) and the order was received very late. Appellant requested this Authority to take action to shift the service wire given to the neighbour through the property of appellant's father without consent.

Arguments of the respondent:

The appellant is having the complaint against the service connection effected to Shri. Prasoon, Kizhakkethottungara, Palath vide consumer no: 1167445017566 from the pole KN 29/29 under Electrical Section, Chelannur. This connection has been effected since 20/03/2017. From the local inquiry made by the respondents, the said land where the WP wire has drawn is found to be under the ownership of the Chelannur Grama Panchayath.

Respondent has also asked the appellant to produce proof of the said land, that it belongs to him. But till date, he has not produced such documents before respondent. Also, Hon'ble ADM, in the Order dated 28/10/2021 has stated that the WP service wire drawn to effect service connection is not making any inconvenience to the appellant and no need to change the existing line drawn.

In view of the above facts, respondent requested to dismiss the petition being filed by the appellant.

Analysis and findings:

The hearing was conducted on 12-10-2022 in the Court Hall of Consumer Grievance Redressal Forum, Northern Region, Kozhikode. The appellant Sri. Kiran Balu was attended the hearing and on the respondent side, Sri. Anand. T.M., Assistant Executive Engineer, Electrical Sub Division, Kakkodi of Licensee was attended the hearing. 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 stating that the land in which the public well existing is the land given by his father Mr. Babu to the Panchayath for constructing an open well for the public use. He is claiming that the tax for the said land is still paid by him. He is failed to produce the documentary proof showing the ownership of the land. The copy of the RTI reply received by him from the Panchayath states that this public well is not included in the property register of Panchayath. The Panchayath Secretary has issued no objection certificate for drawing the electric line above the land in which this public well is existing vide A2-601/2020 dated 29-01-2020.

Further, the matter has been taken up to the ADM, Kozhikode. ADM, Kozhikode vide order dated 28-10-2020 stated that as the line is not making any disturbance to the appellant, the existing line need not be shifted.

The Section 164 of Indian Electricity Act 2003, states that the “The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained”.

The Section 16 of Indian Telegraph Act 1885 states:

- Section 16 (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.
- Section 16 (2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

In view of the above Sections of Indian Telegraph Act 1885, the District Magistrate having the power to take decision on this matter.

The District Magistrate have already taken decision and the appellant is bound to accept.

Decision: -

From the analysis of the arguments and the hearing, following decision is hereby taken:

- (1) I agree with the order of Consumer Grievance Redressal Forum, Northern Region in order No. OP-91/2021-22 dated 29-06-2022.

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

ELECTRICITY OMBUDSMAN

P/064/2022/_____ dated _____.

Delivered to:

1. Sri. Kiran Balu. U.V., Unnikkadam Veedu, Palath P.O., Kakkodi, Kozhikode Dist.
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