

STATE ELECTRICITY OMBUDSMAN

Pallikkavil Building, Mamngalam-Anchumana Temple Road  
Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024  
[www.kerala.org](http://www.kerala.org) Ph.0484 2346488 Mob: +91 9567414885  
Email:ombudsman.electricity@gmail

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APPEAL PETITION NO. P/199/2011.

(Present: T.P. Vivekanandan)

APPELLANT : Sri. C. G. George,  
Maliekal, Chamakala, Ampalathukala P.O.  
Ezhukone, Kollam-691 505

RESPONDENT : The Assistant Executive Engineer,  
Electrical Sub Division, KSE Board, Kottarakkara P O

ORDER.

Background of the case: -

The complaint of the appellant is that the KSEB officials has caused destruction by way of cutting and removing the branches of rubber trees standing in his property without his consent and forcefully erected two concrete posts and has drawn electric line through his property for giving connection to another person with consumer No.26441 of Electrical Section, Kottarakkara. He alleges that the KSEB employees and its contract workers had ill-treated his wife who was sick person. He also states that the Electric line was drawn through his property, without his consent, knowledge and has caused damage to his property and by this encroachment he has suffered a loss of nearly Rs.50,000/-. Aggrieved by this, the appellant filed a Petition before the CGRF, Kottarakkara, which was dismissed vide order No. O P/ 584/ 2010 dated 31/10/2010. Dissatisfied by the order, the appellant preferred this Appeal before this Authority.

Arguments of the Appellant: -

The arguments of the appellant are based on the brief facts and circumstances of the case that is narrated above. Further, the appellant has adduced the following arguments. The ownership of the property in which the Electric Line was drawn, to give a new connection to consumer No.26441, is in the name of his wife and the Post erected to draw the electric Line lies in the passage that obstructs the entrance to the said property. According to the appellant, there was every possibility to give the service connection from another post erected for consumer No. 17066, which is near to the house of consumer No. 26441 than the route now selected and also have direct access from the road. The unauthorized and illegal installation of electric post and line through his property has caused much damage to his property and posed a threat to his life. He had lodged a complaint to the Asst. Engineer, Electrical sub division, Kottarakkara, who had inspected the premises, but did not take any further steps. He argues that he had suffered a loss of nearly Rs.50,000/- due to the said incident and actions of KSEB.

The reliefs sought by the Appellant are;

1. To dismantle the electric lines passing through the property, after verifying the documents.

2. Pay compensation for the losses suffered.

Arguments of the Respondent: -

The Respondent has filed the counter statement against the complaints contained in the Appeal Petition, stating that all the averments in the petition except which are admitted, are false and hence denied by him. It is pointed out that an application for new electric connection, was received from Sri Mohanan, and the same was provided on 17.8.2010, as per rules. For providing the service connection, it was required to erect electric Posts and draw electric line in the footpath (1m width) meant for the applicant's house, which is demarcated properly at the site using stone fencing. The Over Head (OH) electric line of 45 mtrs length and further a WP service wire of 30 mtrs were needed to give the Electric service connection and the same was drawn through the footpath. The property of the appellant lies on the eastern side of the said footpath and the land property west of the footpath was the ancestral property of the wife of Sri. Mohanan, which was bought by Smt. Leela George, w/o Mr George, the appellant. The respondent content that, neither at the time of taking the cost estimate of the work needed to provide the electric connection also contents it, nor at the time of the erection of electric posts and drawing the OH Line, have the appellant or his family members objected it. The appellant also did not put forward any claim on the ownership of the footpath, through which the line was drawn. The respondent submits that he or his employees have never acted deliberately to cause damage or loss to the appellant. Some branches of two rubber trees of the appellant, leaning towards the passage, through which the electric Line was drawn, were cut and removed to maintain the safety clearance of the OH line, as per rules. The employees of the respondent have not threatened them or encroached into the appellant's property, as alleged by them. The appellant had filed a complaint before the KSEB officials on 31/8/2010 and accordingly the officials had inspected and reported the matter. The Assistant Exe Engineer also inspected the site, but the appellant had not produced any evidence, in proof of the ownership of the said footpath. The appellant had requested to change the OH line to UG cable in order to protect the rubber tree branches and the respondent had disagreed to that. According to the respondent, there is any chance to give connection from the post of consumer No.17066, as no footpath or road existed there. It is possible to give the connection through that property, which belongs to another person, but it requires 75 meters of electric Line, with the erection of three posts and also requires the property owner's consent to draw the Line. Considering the above facts, the respondent requests to dismiss the Appeal Petition.

Analysis and Findings: -

On examining the Petition, the statement of facts filed by the Respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision.

The hearing of the case was conducted on 10.05.2011, at Trivandrum and Mr. C.G. George, the appellant and Mr Lalson, AEE, Electrical Sub Division, Kottarakkara were present and they have represented the sides of the Appellant and Respondent respectively. The appellant has submitted photocopies of the documents like possession certificate, sketch, location certificate, resurvey plan, tax receipts etc. of the disputed property for verification. A simple (not detailed) examination of the true copy of the title deed and other documents filed by him, appears to me

that it did not establish the fact that the appellant only has clear title and ownership over the 1-meter wide footpath, as claimed by him. It seems that the appellant has only derived the right to use the disputed footpath to enter into his property. This pathway is seen leading to the house of the consumer No. 26441 as well.

The respondent says that the appellant did not raise any objection at the time of taking the cost estimate of work needed for erection of Posts and the drawing of Electric Line or at the time of execution of the same work. This statement of KSEB is difficult to appreciate, as the appellant has no chance to know about the cost estimate preparation done by the respondent, as it is an internal office duty of the Licensee only and normally outsiders will not be aware of it. Further, he says that the Line was drawn when he was away and his wife has protested against it. If the appellant has raised any oral or written objection against the Electric line drawing at the initial stage of construction of Line itself, then as per rules the KSEB is required to approach the District Collector and get orders before doing the work. In this case, there is no evidence to prove that the Appellant has filed the Objection in time, before the respondents or its superior officers.

Moreover, the electric OH line is seen drawn along the footpath only. It is true that some branches of the rubber trees in the property were cut and removed without his consent. The allegation that the respondent and his employees threatened the appellant and his wife seems to me as an argument only to intensify his claims. In such cases he has to file complaint at Police station, as it is of criminal nature, which is not seen done by the appellant.

The respondent states that, to give electric connection from the post of consumer No. 17066, as demanded by the appellant, it is possible only through crossing another person's property and installing three numbers of electric posts. The consent of the party (property owner) is required for shifting and re-routing the Line. The appellant did not seriously content the above argument except stating that the referred post stand in the property of the relatives to the consumer. In normal course, the electric service connection is provided through the passage meant for the applicant, with due regard to the shortest route available and also selecting the route which is causing least inconvenience to others. Here, I think, this criteria has been followed by the KSEB.

The request of the appellant to shift the line through another owner's property requires more conditions to satisfy. That is, the applicant for shifting work, has to produce the 'consent' of the owners of the properties (through which the Line is proposed to cross or pass) so as to shift the Line or give the electric connection. He is also required to remit the amount estimated for the same work and then only the Licensee will be acting on it. Otherwise, the respondent cannot be compelled to enforce the same request.

The appellant does not seriously dispute the cutting and removing the branches of the rubber trees. The respondent states that they have cut the branches of two trees drooping to the footpath to facilitate the Electric Line drawl and for maintaining the safety clearance, as specified under Indian Electricity Rules. The appellant has not produced any thing to substantiate his claim of Rs 50, 000/- as loss on that account. Since the claim of compensation is not proved, the relief sought for the same, is rejected.

**Decision: -**

The first relief sought is to "dismantle the OH line passing through the said property after verifying the documents".

The main dispute is regarding the Electric Line drawn through a footpath claimed by more than one person. The KSEB has provided Electric service connection to a house situated on the backside of the property of the appellant. Both people claim the footpath as their exclusive one and the appellant has produced the copies of the Location map, possession certificate and the title deed of the property etc to prove his claim. On a rough perusal of the document of the sale deed executed on 12<sup>th</sup>, September 1984, between Mr Surendran and Mrs Leela George, the W/o the Appellant, in page (3), it appears to me that the 3-foot passage has been specifically mentioned as being left out in the 'sale' of the property to the appellant's wife. It is seen recorded as (in Malayalam script) "Moonu chuvadu vazhi sthalam kazhichulla stalathil-----". The photos of the footpath i.e. the passage leading to the property of the consumer shows, the passage as having demarcated and erected with stone pillars on either side, so as to separate it from the property. Hence, I feel that the respondent cannot be find fault with in giving the electric connection by drawing the OH line along the path leading to the applicant's house.

The above findings, underlined above, are not conclusive proofs or evidence to establish the fact of ownership of the footpath, but this Authority is only intended to see whether the Respondent, KSEB, has acted in a judicious manner as per rules and whether their action in this case can be justified with, as having bonafide intentions.

The ownership of the footpath leading to the appellant's property and to the property lying on the backside, belonging to the consumer No 26411, can be determined only through a Court of Law. It is made clear that this Forum cannot decide the ownership of the footpath. From the conclusions arrived at, I feel that the respondent has acted in good faith only and this Authority does not find any laxity in service to the appellant or that the respondent have done undue favors to others, in their dealings, as far as this case is concerned.

The claim of compensation for loss of Rs 50,000/- was not proved and hence rejected.

Having concluded and decided as above, the Appeal Petition filed by Mr. C G George, is disposed of as it is found having no merits and stands dismissed accordingly.

No order on costs. Dated the 18<sup>th</sup> of May, 2012.

Electricity Ombudsman.

Ref No P/ 199/ 2011 \_\_\_\_\_ Dated

Forwarded to: - 1). Sri. C. G. George, Maliekal,

Chamakala, Ampalathukala PO, Ezhukone, Kollam-691 505.

2). The Assistant Executive Engineer,

Electrical Sub Division, KSE Board, Kottarakkara. P O.

Copy to: -

(1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.

(2). The Secretary,

KSEBoard, Vidyuthibhavanam, Pattom, Thiruvananthapuram-4.

(3). The Chairperson, Consumer Grievance Redressal Forum,  
KSEBoard, Vidyuthibhavanam, Kottarakkara P O.