

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 77/09

Appellant : Smt Mini KrishnaSwamy
B 102, Pearl Bay, Kadavanthra, Cochin 682020

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division PALARIVATTOM , Ernakulaam

ORDER

Smt Mini Krishna Swamy , B 102, Pearl Bay, Kadavanthra, Cochin submitted a representation on 21.5.2009 seeking the following relief :

Refund the Security Deposit of Rs 3500/- with interest collected on 29.05.2008

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 20.8.2009.

The late husband of the Appellant Sri KrishnaSwamy purchased the House No:39/749(Old No:33/354) at Mamangalam Ernakulam in 2003 from one Dr Rony Jacob with electric connect ion bearing Cons No:9885.For changing the ownership of the connection the Appellant submitted the title deed and the supporting deed along with the required documents to the Assistant Engineer Palarivattom on 6.2.2008 . But the Assistant Engineer insisted that since the connection in KSEB records were in the name of one Sri Asokan the Appellant had to execute indemnity bond in Form No:5 and remit special Security Deposit of Rs 3500/- in addition to additional CD of Rs 3500/-. The amount was paid on 29.5.2009 and the ownership changed on 30.5.2008.The Appellant being aggrieved, approached CGRF for refund of the Special Security Deposit but the CGRF upheld the action of the Respondent.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

According to the statements during the hearing, the residential building rented out by the Appellant was put under commercial tariff by KSEB. The Appellant approached KSEB to change the tariff in December 2007. The Respondent insisted that the owner ship of the

connection should be changed to her name for getting the tariff converted from Commercial to Domestic. The Appellant claims that she had produced all the required documents as per the notification exhibited on the Notice Board of the Section office for change of ownership. She could not produce the consent letter from Sri Asokan, the 'registered' name of consumer.

Then the Assistant Engineer asked her to produce all the papers required for taking a new connection. She was directed to produce the wiring completion report from an approved wiring contractor for which she had to spend about Rs 4000/- for rewiring and other costs. The Appellant argued that the KSEB could have acted as per Section 19(3) of the Terms and Conditions of Supply regulations and transferred the ownership after collecting additional Deposit. The action of the KSEB in asking for the documents required as per Section 14(4) of the regulations, as if the request was for a new connection by a tenant without consent of the owner, was illegal. The KSEB also insisted that a special security deposit of Rs 3500/- was to be remitted in addition to Additional Security Deposit of Rs 3500/-. The Appellant pleads that the deposit may be refunded with interest.

The Respondent stated that there was no sufficient clarity in respect of such situations in the Terms and Conditions of Supply. The procedure had been simplified in 9/2008. In any case the respondent admitted that there is no justification for collecting Special CD for change of ownership of connection.

The issue to be decided is whether the collection of Special Security Deposit for transfer of ownership is proper or not.

The regulations in the Terms and Conditions of Supply of KSEB relating to transfer of ownership of connections are furnished below:

- I. When the registered consumer intimates the transfer of right of occupancy the clause 19 (3) shall apply.

19 Agreement for Service Connection

(3) When there is transfer of ownership or right of occupancy of the premises, the registered consumer shall intimate the transfer of right of occupancy of the premises within 7 days to the Asst. Engineer/Asst. Executive Engineer concerned. On such intimation having been received, the service shall be disconnected, after giving notice to the occupants. If the transferee desires to enjoy service connection, he shall pay the dues to the Board and apply for transfer of ownership of service connection within 15 days and execute fresh agreement and furnish additional security.

- II. Clause 41(2) also provides for the procedures mentioned above:

41. Notice of Removal

(1) Consumer is about to vacate or sublet their premises or intending to sell or transfer their rights over the premises should give the Asst. Engineer's Office of the Board full seven days' notice in writing, together with an opportunity for disconnecting services in the premises, otherwise the Board cannot guarantee that the meter reading will be taken on the required date. Failing such notice the registered consumer will be held responsible for energy consumed in the premises in respect of which the Board holds its

agreement for the supply of energy, until the expiry of 48 hours from the first working date after notice of vacation in writing has been received at the Asst. Engineer's Office of the Board.

(2) (a) Whenever the ownership of a premises changes due to any reason, service connection shall be given as per relevant provision in Clause-19.

III . But the the question of Indemnity Bond and Special Deposit arises only in the cases where new service connections to *occupants/tenants* are registered without the consent of the owner.

14. Records to accompany the Application for Service Connection

After completing the wiring satisfactorily, the following records should be forwarded to the Assistant Engineer's Office.

(1) Completion Report of the Consumer's installation in Form No.3 annexed.

(2) Test Report of the consumer's installation of the wiring contractor (Form No.3 annexed).

(3) A neat sketch of the premises showing the position of all lamps and other fittings

(4) If the intending consumer is not the owner of the premises to be electrified, he shall furnish a consent agreement in Form No.4 annexed from the owner of the premises. If he is unable to produce the consent agreement from the owner of the building, the service connection can be effected if the applicant executes an Indemnity Bond in Form No.5 annexed. A special deposit equal to the amount of Security Deposit is also payable whenever service connection is effected to the occupier/tenant and not the owner.

It is true that the above regulations do not explicitly narrate the procedures for a case when a Law-full title holder approaches the KSEB for transfer of ownership *without* the consent letter/ signed bond from the 'registered' consumer. But it is very obvious from clause 19(3) that the change of owner ship can be allowed if the concerned officials are convinced of the legitimacy of the documents.

In the instant case the Assistant Engineer had insisted for producing papers for availing a *new connection* including wiring completion report etc. More over in spite of producing all the documents to prove the ownership the Appellant was asked to provide indemnity bond and remit Special Security Deposit just because the service connection registered around 30 years back was in some other name.

It has also been reported that change of tariff was not allowed since the 'registered' consumer was not applying. These actions of the Assistant Engineer are highly deplorable and amounts to harassing the consumer.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The Respondent shall refund the Special Security Deposit collected from the Appellant vide receipt number 55432905080113 dated 29.5.2008 amounting to Rs 3500/- along with interest at Twice the rate specified under clause 16(1) of the Supply Code 2005. The payment shall be made directly to the Appellant by cheque within 30 days from the date of receipt of this order.*
2. *The report on compliance of this order shall be submitted by the Respondent to the undersigned and Kerala State Electricity Regulatory Commission.*
3. *No order on costs.*

Dated this the 21st day of August 2009,

P.PARAMESWARAN
Electricity Ombudsman

No P 77 /09/ 328/ dated 21.8.2009

- Forwarded to:
1. Smt Mini Krishna Swamy
B 102, Pearl Bay,
K.P Vallon Road, Kadavanthra, Cochin 682020
 2. The Assistant Executive Engineer
Electrical Sub Division PALARIVATTOM , Ernakulaam

Copy to :

1. The Secretary,
Kerala State Electricity Regulatory Commission
KPFC Bhavanam, Vellayambalam,
Thiruvananthapuram 695010
2. The Secretary ,KSE Board,
Vaidyuthi Bhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF, KSE Board ,
Power House Road ERNAKULAM 682018
4. The Executive Engineer
Electrical Division Ernakulam
Power House Road ERNAKULAM 682018

