

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/038/2018
(Present: A.S. Dasappan)
Dated: 20th August 2018

Appellant : Smt. Radhika Rani,
Kamalalayam,
Thonnallur,
Near NSS College,
Pandalam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Pandalam,
Pathanamthitta.

ORDER

Background of the case:

The appellant, Smt. Radhika Rani, a consumer under Electrical Section, Pandalam with consumer number 2468, had applied to the Assistant Engineer on 20-12-2017, for changing the ownership of the service connection registered in favour of her father, Sri. N.K. Madhavan, to her name. But, due to the objections filed by Sri Madhavan, the service connection was not transferred in the appellant's name. The appellant approached the respondent seeking for transfer of ownership of the service connection in her name since she submitted all the requisite documents for changing ownership. According to the respondent, the changing of ownership is not registered due to the dispute. There upon the appellant filed a complaint before the CGRF, Kottarakkara, which was dismissed with a dissenting note of one member of the Forum, vide order OP No. 30/2018 dated 17-05-2018. Aggrieved by the order of the CGRF, the appellant has submitted this appeal petition before this Authority.

Arguments of the Appellant:

The building with No. VII/607(A) in which the electric connection provided in ground floor with Consumer No. 2468 and in first floor with Consumer No. 21229 is under the ownership of the appellant. The service connection with

Consumer No. 2468 was shifted to the ground floor from the old building and the ownership of the connection is in the name of the appellant's father, Sri N.K. Madhavan Pillai. The building is situated in 25 cents of land and the land is under the possession of the appellant. The appellant has been paying the land tax and building tax.

The appellant approached the respondent with an application with required fees to change the tariff of the Consumer No. 2468 from commercial purpose to domestic purpose and to change the ownership of the connection from Sri N.K. Madhavan Nair to the appellant. But the respondent did not accept the application as there is a civil suit between the appellant and her brothers/sisters in the Hon'ble Munsiff Court, Adoor with IA 814/2016 in OS No. 239/2016 pertaining to the ownership of the pathway of land to the extent of 66 cents. But the case is not related with the electric connection.

The appellant filed petition before the CGRF, Kottarakkara for redressing her grievances, but the Consumer Grievance Redressal Forum in its order dated 17-05-2018 in OP No. 30/2018, not allowed the request and disposed of the petition with dissenting note by one member of the Forum. Two members of the Forum did not admit the claim of the appellant and the third member took a positive approach.

The appellant was not given notice for hearing which held on 28-03-2018 and disposed of complaint without being heard. This is not justifiable.

The appellant has adduced the following grounds for consideration.

The civil case is not related to her application for change of ownership and categorization of tariff. The building having the connection is in the possession and ownership of the appellant. The appellant has complete right on the property as per document No. 1104 executed by the father of the appellant. The CGRF disposed the complaint without being heard.

The appellant requested to change the ownership of the electric connection to her name and to change of tariff as requested after verifying the documents.

Arguments of the Respondent:

The service connection with Consumer No. 2468 effected on 01-04-1957 is registered in the name of Sri N.K. Madhavan, Kamalalayam, Thonnallur, Pandalam in Electrical Section, Pandalam. The connection is retained in the ground floor of the new building and another connection with Consumer No. 21229 was provided in the first floor in the name of Smt. Radhika Rani, Kamalalayam, Thonnallur, Pandalam under LT I A tariff. The present tariff of Consumer No. 2468 is LT VI B.

The appellant has submitted application for changing ownership and tariff of service connection 2468 along with ACD. The respondent realized Rs. 50/- towards the application fee for ACD and others kept pending for realization. On 30-11-2017, Sri N.K. Madhavan, registered consumer of Consumer No. 2468 lodged a complaint in the office stating that his daughter Smt. Radhika Rani is trying to change the ownership of the electric connection to her name with forged documents. Also stated that a civil suit is pending in the Hon'ble Munsiff Court, Adoor vide OS 239/2016 and have to avoid any action to change the ownership of Consumer No. 2468. As such the application for tariff and ownership change was not considered by the respondent and informed the facts to the appellant Smt. Radhika Rani accordingly.

Analysis and findings:

The hearing of the case was conducted on 27-07-2018, in the Office of the State Electricity Ombudsman, Edappally, Kochi 24. The appellants' side was represented by Sri. K. Somarajan, and the respondent by Smt. Sabitha John, Assistant Executive Engineer, Electrical Sub Division, Pandalam and they have argued the case, mainly on the lines stated above. On examining the appeal petition and argument note filed by the appellant, the statement of facts and argument note of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings leading to the decisions thereof.

The issue referred in this appeal is with respect to the change of name and address of the consumer No. 2468 in the records of the licensee and re-categorization of tariff.

As per records produced by the appellant, she is in absolute possession, enjoyment and ownership of 10 Ares of property comprised in survey No. 207/8-5 of Pandalam Village and building no. 7/607A of Pandalam Municipality. But the respondent denied the request of the appellants' for the change of the name and address of the registered consumer because of the failure on the part of appellants to produce a written consent from the present registered consumer as per Regulation 90 (1) of the Supply Code, 2014 and a written objection filed by the present registered owner of the connection No. 2468. After hearing the submissions made by the appellant and the respondent and on perusal of the records produced, it is prima facie evident that the property and the building is originally owned by the appellant and the present registered consumer is her father who obtained connection on 01-04-1957 in the old building under LT IA tariff. Now this connection is under LT VI B tariff. This connection was later transferred to the new two storied building constructed by the appellant and also the appellant is having another connection with consumer number 21229 in the first floor as the registered owner in building number 7/607A which was obtained on 30-09-2008.

As per Regulation 90 (1) of Supply Code, 2014, application for the change in name of the registered consumer due to change in the ownership or occupancy shall be applied in proper form (Annexure 8) along with the following documents.

1. Copy of the latest bill duly paid.
2. Proof of ownership/legal occupancy of premises.
3. No objection certificate from the existing consumer if available /possible
4. Registered deed/successor certificate (other documents, if any)

On going through the model application form for change in name of registered consumer (Annexure 8) of Supply Code, 2014 it can be seen that No Objection Certificate from the existing consumer can be insisted if it is available or possible as mentioned in Note No. 3 of Annexure 8 of Supply Code, 2014. Regulation 90(1) of Supply Code, 2014 is applicable for change in the name of registered consumer due to the change in the ownership or occupancy. In this case, there is change of ownership. The appellant is the owner of the premises which was earlier given to the appellant by her father vide Document No. 1104 of 1998.

Regulation 91 (4) (f) reads as ***“in case the no objection certificate from the registered consumer or previous occupant of the premises or a person authorized by them is not submitted, an application for change of name shall be entertained only if security deposit as stipulated in the Code is paid afresh by the applicant.”*** The above provisions reveal that the production of the NOC from the existing consumer is not mandatory for change of name. Further, the evidence shows that the appellant owns the property and the building having the connections and Sri Madhavan is not even occupying the premises. In this background the Regulation 91(4) (f) will apply in this case.

On a perusal of the records, it is revealed that a civil case in OS No. 239/2016 filed by the appellant herself is pending in the Hon. Court of the Munsiff, Adoor. Further it is found that the Hon. Munsiff Court, Adoor has pronounced in I.A. No. 814/2016 in OS No.239/2016 filed by Smt. Radhika Rani, the plaintiff, that “Affidavit filed undertaking that the way will not closed till the disposal of the suit. Counsel for petitioners submitted he is satisfied with the affidavit. As submitted by both sides, based on the undertaking affidavit filed before court, petition is closed”. This case relates to the pathway of the property. As these cases are not directly related to the issue in question referred in this appeal, there is no bar for this Authority to consider the issue and pass appropriate order.

From the records it is revealed that the registered consumer is not the owner or an occupant in the said premises at present, it is proper for the respondent to take action on the application for change in name without insisting no objection certificate from the existing consumer/owner as per the Note 3 of the model application form (Annexure 8) of Regulation 90(1). Though the registered owner raised an objection regarding change of ownership, he has not submitted any supporting documents as evidence. The present registered owner’s claim of fake document is not substantiated by any complaint which he presented before the appropriate authorities or before legal authorities. A mere objection without any valid reason is not a sufficient ground to deny a legitimate request. In the absence of no objection certificate from the registered consumer the owner can deposit the security amount as stipulated in the Supply Code afresh and apply for change of name. The request for change of

consumer category of the tariff can also be considered by the respondent as per the provisions of Regulations 90 and 98 of the Supply Code, 2014.

Decision

In view of the discussions, it is concluded that the respondent is directed to change the ownership of the electric connection number 2468 to the appellant on deposit of security amount afresh by the appellant as per Regulation 91(4) (f) and also consider the request for changing consumer category of the tariff observing all other formalities. This shall be done at any rate within 30 days from the date of receipt of this order. It is also made clear that the security deposit remitted by Sri Madhavan can be refunded to him on his application if any as per the prevailing rules.

The order of CGRF, Kottarakkara in OP No. 30/2018 dated 17-05-2018 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/038/2018/_____ /Dated:_____

Delivered to:

1. Smt. Radhika Rani, Kamalalayam, Thonnallur, Near NSS College, Pandalam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Pandalam, Pathanamthitta.

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.