

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/075/2019
(Present: A.S. Dasappan)
Dated: 26th November 2019

Appellant : Smt. Sreedevi R
Anandavilasam, Udaya Nagar,
Asramam, Kollam

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSEBL, Kollam,
Kollam

ORDER

The appellant is a domestic consumer under Electrical Section, Kadappakkada. The appeal is against the order dated 06-09-2019 of CGRF, Southern Region, Kottarakkara in the petition No. 80/2019. The appellant is still aggrieved by the order in not allowing the reliefs prayed by her before the Forum. The grievance of the appellant is as follows.

Sri. Sreekumar, brother of the appellant's husband availed electric connection in a portion of the same house where the appellant is owned and residing, without her consent. There was a case in the Hon: Munsiff Court, Kollam vide OS No. 407/2003 regarding the ownership of land and as per the order, the appellant received 9½ Cents and the younger brother of the appellant's husband received 4½ Cents of land. Sri. Sreekumar and his wife are residing in two rooms of the building while measuring the land as per the Court Order. The appellant had requested the respondent not to effect another electric connection in the portion of the building, but they effected it. The appellant lodged complaint before the Executive Engineer to disconnect the electric connection, but the Executive Engineer also rejected the appellant's request.

The District Collector has not given sanction to provide electric connection to Sri Sreekumar. The statement that the Court allowed Sri Sreekumar to stay

in the house of the appellant is also false. Order in EA No. 205/17 in EP No.18/17 in OS 427/2003 is not issued so far.

The respondent has furnished the following averments in the counter statement filed by him.

Sri. Sreekumar, Ananda Vilasam, 9/495, Kunill Veedu, Udaya Nagar-14, Asramam, Kollam has applied for a Low-Tension electricity connection for residential purpose in the prescribed format on 15.05.2019 to the building which is mentioned in the Residence Certificate issued by the Village Office, Kollam East and remitted the requisite application fee on 16.5.2019. Meantime, the appellant had raised an objection alleging that the aforesaid premises belong to her and is about to tumble down due to its ageing. So required the respondent to abstain from providing electricity connection to the said building.

Sri. Sreekumar. who is diagnosed as Retro viral positive and is under treatment from ART centre, USHUS, District Hospital, Kollam with effect from 29.10.2008, has submitted an application before the District Collector on 6.5.2019 seeking a special order for electricity connection to the premises where he is presently residing. The aforesaid application was forwarded to this respondent for enquiry and necessary action. It is stated therein the application that he is HIV positive for the past 15 years and is residing in his brother's house at Asramam Ananda Vilasam, Kunnil Veedu, Udaya Nagar-14 with his ailing wife. The electricity connection to the said building was stated to be disconnected by the appellant owing to his ailment.

Sri. Sreekumar has submitted the following documents along with the application.

- a) The Aadhar card of Sri. Sreekumar, comprising address same as that of the site where supply is required.
- b) The ration card of the applicant comprising the address of the premises where supply is required
- c) Residence certificate issued by the village officer, Kollam East.
- d) Copy of the BPL Certificate issued by the Corporation, Kollam.
- e) Undertaking from Sri. Sreekumar agreeing to effect disconnection of the supply temporarily or permanently in the event of any direction from the Local Body Authorities and to redeem all the expenses and losses that may be incurred by the KSEB Ltd. on account of effecting the electricity connection.

By virtue of para 1.2.2 (A) of the Board order B.O (FTD) No. 1902/2018 D (D & IT)/D-6-AE 3/Ease of doing business/2018 -19 dated 2.11.2018, issued by the Board in continuation of the compliance of directives from the Government of Kerala intending to achieve the 'Ease of Doing Business', any one of the documents specified under item 'a', 'b' and 'c' of para '5' above is only required for effecting service connection to the applicant. Electricity connection to the aforesaid premises was effected by this respondent strictly conforming to the

procedures laid down in the Kerala Electricity Supply Code 2014. There is no infirmity in providing electricity connection to the premises as the appellant hasn't placed on record any injunction/order from competent court of law prohibiting the respondent from providing electricity connection to the premises where Sri. Sreekumar, the brother of the appellant's husband, is residing with his wife. Further, this respondent was not required by any other competent authority to disconnect the said electricity connection.

The respondent has examined the present status of the case pointed out by the appellant and found that the Hon'ble Munsiff Court, Kollam has allowed the EA (Execution Application) filed by Sri. Sreekumar seeking the review of the order closing the EP No. 18/2017 in OS No. 427/2003 and the case stands posted on 21.8.2019. The said EP 18/2017 was filed by the appellant to get the delivery of the share allotted to her as per the final decree in OS No. 427/2003. Whereas the Hon'ble Munsiff Court has decided to review the order closing the EP No. 18/2017 in order to consider objection to the delivery report.

Hearing of the case was conducted in the office of the State Electricity Ombudsman on 19-11-2019 and Smt. Sreedevi .R represented for the appellant. Sri Raj Mohan P, Assistant Executive Engineer, Electrical Sub Division, Kollam represented for the respondent.

As per the appellant, Sri. Sreekumar has no right in the building or land owned and occupied by the appellant pursuant to a court order. According to the respondent, the connection to Sri Sreekumar was given in the same building on submitting the required documents by him. But the appellant had filed a complaint against effecting of the said electric connection since the premises is owned by her. As per Regulation 45 (2) of the Supply Code 2014, an applicant who is not an owner but an occupier of the premises, shall furnish a no objection certificate from the owner of the premises along with any one of the documents listed at clauses (i) to (vi) in Regulation 45(1). This was not complied by the respondent and it is a serious lapse.

At present EA No. 205 in EP No. 18/17 in OS No.427/2003 is pending in the Court of Hon. Principal Munsiff, Kollam on the subject of delivery of the property.

At this juncture it is to be noted that, Clause 22 (d) of the Kerala State Electricity Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, provides that "no representation to the Ombudsman shall lie in case where a representation for the same grievance by the appellant is pending in any proceedings before any Court, tribunal or arbitrator or any other authority or a decree or award or a final order has already been passed by any such Court, tribunal, arbitrator or authority".

Since an EP is pending for disposal and in the light by the above provision under 22(d) of KSERC Regulations 2005, which restricts the maintainability of

the petition filed for the same cause of action and relief, the Appeal Petition filed by the appellant, need no further action at this Authority and hence stands rejected. However, the respondent shall take proper action on disposal of the EA No. 205 in EP No. 18/17 in OS No.427/2003 in the Court of Hon. Principal Munsiff, Kollam.

ELECTRICITY OMBUDSMAN

P/075/2019/_____ /Dated:_____

Delivered to:

1. Smt. Sreedevi .R, Anandavilasam, Udaya Nagar, Asramam, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Kollam, Kollam

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, Kottarakkara - 691 506.