

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 17 -04-2010

Appeal No. 3 of 2010

Between

S.Tata Rao (Librarian)
Door No. 19-76/B, Chitri Street,
Narasannapeta, Srikakulam - 532421

... Appellant

And

The Asst. Engineer / Operation / D2 / APEPDCL / Srikakulam
The Asst. Divisional Engineer / Operation / APEPDCL /Srikakulam
The Divisional Electrical Engineer / Operation / APEPDCL / Srikakulam

....Respondents

The appeal / representation dated 22.01. 2010 received on 25.01.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 06.04.2010 at Visakhapatnam in the presence of Sri Tata Rao, appellant and Sri Ch.Satyanarayana Reddy, DE/Op/Srikakulam, Sri K.Appa Rao, ADE/T/Srikakulam and Sri G.Venkata Ramana, AAE/Op/D2/Srikakulam present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint before the Forum on 17.09.2009 that inspite of the payment of estimated charges of Rs.7460/- by way of DD on 23.04.2009, to shift the poles from his site but the respondents did not do the

same and requested the Forum to consider his request to shift the poles from his site. The said matter was registered as CG No. 65/2009.

2. Sri C.Ramayya has filed a complaint before the Forum that the licensee is proposing to shift the poles on the request of some person and to erect them in his land which is being utilized by him as way to go to his Mango garden and requested to stop the work and to save him from the loss to be incurred in case of shifting poles. The said complaint was registered as CG No. 85/2009.

3. The Forum after considering both the petitioners and material available on record, directed the appellant to obtain the permission for 'Way-Leave' and produce the same to the respondents for taking up the work since it is his responsibility as per clause 5.2.4 of GTCS. The respondents have failed in this aspect and made the appellant to pay estimated charges in anticipation of the permission of the same is not correct and disposed both the petitions accordingly.

4. Aggrieved by the said order, the appellant preferred this appeal stating that he was working at various places and that he was about to construct a house in his site. He found some electrical poles in his site and he approached the authorities to shift the same into the adjacent place and the department collected shifting charges of Rs.7460/- but they did not attend the work on the objection raised by the neighbour and he has been suffering a lot on account of said poles and the very usage of the site will be effected by virtue of the Act of the respondents and requested this authority to direct the respondents to shift the poles into the adjacent site.

5. Now, the point for consideration is, "whether the impugned order, dated 26.12.2009, is liable to be set aside? If so, on what grounds?"

6. It is clear from the record that the petitioner himself has attended and stated about the facts mentioned in the grounds of appeal and the respondents represented by Sri Ch.Satyanarayana Reddy, DE, Sri K.Appa Rao, ADE/T/Srikakulam and Sri G.Venkata Ramana, AAE/O/DE/Srikakulam present and represented that on account of the objection raised by the adjacent neighbour, they could not shift the poles.

7. It is clear from the record that the petitioner has produced his title deed which is a registered sale deed dt.10.12.1998 and it is also an admitted fact that he is an employee and working at various places, it is also clear from the record, that the poles are erected in his site causing obstruction for the construction of the building in his plot No.36. It is also clear from the record that the electrical line is going through his site. It is also an admitted fact, that he has paid charges for shifting of the poles; and that the complaint clearly discloses that the electrical line is going through his site of the appellant.

8. The appellant in his complaint also discloses that there is a gravel road in between his site and the neighbouring site. The objection of the neighbouring land lord is that he is using the land to go to the mango garden. What is the loss going to be caused is not mentioned by him in shifting the said poles in the said land. Moreover, no documentary evidence is filed to show that it is a private lane. The Forum has directed the appellant to obtain the permission for way-leave and to produce the same before the respondents in terms of clause 5.2.4 of GTCS.

9. When there is a lane in between the sites and when there is a documentary proof to show that it is a private lane, it is for the appellant to get the land surveyed and show that the said lane is a private lane or lane approved for general purpose and when it is a lane provided for the community at large, the objection of the neighbouring land lord holds no water when it is surveyed and it is lane for the benefit of public and if certificate is produced by him, the

authorities are directed to shift the same in accordance with the documents filed by the appellant with regard to the lane. With this observation, the appeal is disposed of accordingly. No order as to costs.

This order is corrected and signed on this day of 17th April 2010

VIDYUT OMBUDSMAN