

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 04 – 01 - 2012

Appeal No. 75 of 2011

Between

Sri G.R.Prabhu
#2-2-23, Hanuman Nagar, Darga Road,
Near Lanco Hills, Manikonda Jagirm
Hyderabad – 500 089.

... Appellant

And

1. Assistant Engineer / operation / Ibrahimbagh/CPDCL/Hyderabad
2. Assistant Divisional Engineer / operation / Ibrahimbagh/CPDCL/Hyderabad
3. Asst. Accounts Officer / Operation / Gaganpahad / CPDCL/Hyd.

....Respondents

The appeal / representation dt.14.10.2011 (received on 19.10.2011) against the CGRF order of APCPDCL (in CG No.39/2011-12/Ranga Reddy South Circle dt.23.09.2011). The same has come up for final hearing before the Vidyut Ombudsman on 12-12-2011. Sri.G.R.Prabhu appellant and Smt.P.Krishnaveni, appellant wife present and Sri B.Ravi Kumar, ADE/O/Ibrahimbagh, Md.Asif Ali, JAO/ERO/Gaganpahad, Mohd. Tajuddin Baba, AAE/O/Ibrahimbagh and Sri Sarat Chandra Mouli, Sr.Asst, Sub-ERO/Ibrahimbagh on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The appellant / complainant filed a complaint before the Forum stating that:

“he has given a representation to J.A.O./APCPDCL/ERO/Ibrahimpatnam on 14.3.2011 regarding sudden transfer of his service connection No.1208 00975 on the IGPA. He agreed to do the needful since mistake has happened. It is not known to him as to how the name is transferred on GPA. I hope this Office will solve his problem.”

2. The first Respondent, AE/O/Ibrahimbagh submitted his written submissions as hereunder:

“The S.C.No. 1208 00975 exists in the premises bearing No.2-2-23, Hanuman Nagar, Manikonda Jagir is the joint property of Sri Goverdhan Ramdas Prabhu and Smt. P. Krishnaveni, W/o. Sri Goverdhan Ram Das Prabhu. The service was released in the name of Sri Goverdhan Ramdas Prabhu on 6.1.2006 with 3 KW load. Smt. P. Krishnaveni is the second wife of Sri GR Prabhu, consumer of the above service. Smt. P. Krishna Veni nominated and appointed Sri Chandra Koteswara Rao, S/o.Chandra Punnaiah her son-in-law as per Power of Attorney to do all the acts, things, deeds on her behalf on 15.12.2009.

Further, Smt. P. Krishnaveni executed an irrevocable GPA and her Power of Attorney is entitled to sell either with undivided share in the scheduled property or at his option he can sell after partition in the property. With the above, Sri Chandra Koteswara Rao approached the Electricity Office for change of name of service in his favour and the same has been affected from 31.3.2010. Sri GR Prabhu approached the concerned electricity authorities on 29.3.2011 and represented for changing the service into his name duly showing the original documents.”

3. Sri G.R.Prabhu, appellant and Smt. P.Krishnaveni wife of the appellant were examined and Sri Md. Tajuddin Baba, AE/O/Ibrahimpatnam Sri P. Mohan Krishna, I/c.ADE/ Operation/Ibrahimpatnam, and Sri D. Prabhakara Chary, AAO/ERO/Gaganpahad were examined by the Forum on behalf of the respondent and recorded their statements.

4. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

“The above issue is purely a civil dispute, where the Forum has no purview to interfere. And also it will become sub judice when the matter is pending in the Court.

The Respondents are directed to maintain status quo.

The complaint is disposed off accordingly.”

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same that Smt.P.Krishnaveni has nominated Sri Chandra Koteswar Rao and he cheated his wife and obtained IGPA in his name. The act of the respondents in changing the service connection in the name of the said Sri Chandra Koteswar Rao without obtaining the consent of the original consumer ie., the appellant herein. The self declaration of the consumer on the stamp paper of Rs.100/- is essential for the said transfer and the department has changed his name without his consent and without the said declaration on the stamp paper and also without the signature of the GPA executant. The ADE joined hands with the IGPA holder and changed the service connection. The civil suit filed in OS 474/2011 is a property dispute and injunction is granted not to alienate property and not to create any charge and that the department changed even without his consultation since service connection was issued originally in his name on 06.01.2006 and the appeal is to be allowed by setting aside the impugned order.

6. Now, the point for consideration is, “whether the impugned order is liable to be set aside? If so, on what grounds?”

7. The appellant Sri G.R.Prabhu appeared before this authority after receiving notice from this office and categorically mentioned that he himself and Smt. P.Krishnaveni purchased the land and jointly constructed the house and service connection was obtained on 06.01.2006 to the said premises in his name and it is a three storied building and Sri Chandra Koteswar Rao, son-in-law of Smt. P.Krishnaveni who married the daughter of Smt. P.Krishnaveni born to her through her first husband and without his consent, the service connection was changed and the department can as well grant a new service connection to him, if he desires so, but not by changing his name and introducing name of the said Sri Chandra Koteswar Rao and the procedure adopted by the department is illegal and the Forum has failed to distinguish the dispute between the consumer and the department and the dispute between the owners of the property and the impugned order passed by the Forum is liable to be set aside.

8. Whereas, the respondent is represented by Sri B.Ravi Kumar, ADE/O/Imbrahimbagh, Md.Asif Ali, JAO/ERO/Gaganpahad, Mohd. Tajuddin Baba,

AAE/O/Ibrahimbagh and Sri Sarat Chandra Mouli, Sr.Asst, Sub-ERO/Ibrahimbagh categorically stated that basing on the irrevocable GPA, they have changed the name of Sri Chandra Koteswar Rao in the place of the appellant herein and they have also categorically stated that they have not obtained the signature or consent of the appellant and by virtue of the order passed by the civil court, they have not changed the name of the appellant and the appeal preferred by the appellant is liable to be dismissed.

9. It is clear from the record that Smt.P.Krishnaveni and the appellant herein purchased the property admeasuring 168sq.yards land in survey no.26 of manikonda jagir (village), Rajendranagar (Mandal), R.R.Dist from Sri S.Govardhan S/o.S.Ramulu. It is also clear from the documents produced by the appellant that they have jointly constructed the three storied building in the schedule land and they have obtained the service connection in the name of the appellant herein on 06.01.2006. It is also clear from the record that Smt.P.Krishnaveni executed an irrevocable General Power of Attorney in the name of Sri Chandra Koteswar Rao S/o. Late Chandra Punnaiah being her son-in-law for half share ownership possessed by her in H.No.2-2-23 of Plot No.3 in survey no. 26 admeasuring 168sq.yards in manikonda jagir and the building is 2714 sq.feet ground, first and second floor. Similarly, the said Sri G.R.Prabhu executed Gift Settlement Deed in the name of his son Sri Avinash Prabhu on 20.02.2010 in respect of his half share in the said building. So, it is evident that both Smt P.Krishnaveni and the appellant are the owners of the said property having equal rights i.e., half-share by each.

10. It is also an admitted fact only one service connection was obtained in the name of the appellant. The appellant did not make any application for transfer of the service connection in the name of his son, even after execution of gift deed of his half share in the name of his son Avinash Prabhu. No document is produced by the respondents that Smt.P.Krishnaveni executed and gave her consent to transfer the service connection in the name of her son-in-law. Even if she gives consent to the said transfer, it is not valid since, she is not the consumer as per the records of the respondents. It is also clear from the representation made by the appellant and Smt.P.Krishnaveni that the Sri Chandra Koteswar Rao is the husband of the daughter born to her through her first husband. Similarly, Avinash Prabhu is born to

G.R.Prabhu through his first wife. How the department has changed the service connection in the name of Sri Chandra Koteswar Rao is not known and it is for the respondents to explain the same and they have not produced any document either before this authority or before the Forum, even though the Forum has asked the same. It is to be construed that they have changed the service connection with an ill motive and for the reasons best known to them. One can insist if Sri Chandra Koteswar Rao applies for service connection in his name by virtue of IGPA, there may be some sort of sensibility in giving the service connection in the name of said Sri Chandra Koteswar Rao. But that is not the case herein. They have changed the name of the appellant i.e., Sri G.R.Prabhu by substituting Sri Chandra Koteswar Rao even without obtaining the consent of Sri G.R.Prabhu. So, the act entertained by the respondents is illegal and contrary to the conditions incorporated in the General Terms & Conditions of Supply issued by APERC.

11. It is clear that a civil suit is filed by Sri Chandra Koteswar Rao in O.S.No. 474/2011 and obtained interim injunction against Sri Avinash Prabhu and another not to alienate the property or by creating charge or encumbering the said property. He has not impleaded Sri G.R.Prabhu, appellant herein as a party to the said suit. The Forum has failed to notice the analogy or intricacies or scope of civil litigation. It is only a dispute with regard to the property that too apprehending alienation.

12. Sri Avinash Prabhu cannot alienate the entire property as his right is restricted to half share only. Similarly, Sri Chandra Koteswar Rao cannot alienate the entire property being IGPA holder of Smt.P.Krishnaveni on the half share of Smt.P.Krishnaveni in the said property. If property is sold without any right it is void under law. So, none of the parties can alienate the entire property. At best, they can alienate only undivided half share in the said property or the respective shares after division of the property. Now, it cannot be alienated even that half share by virtue of the injunction order granted by the civil court.

13. However, it is not the job of this authority to look into the civil rights of the parties. The job confined to this authority is to see that no injustice is caused to the consumer and whether there is any deficiency of service on the part of the respondents. Apparently, there is a deficiency of service on the part of the

respondents by changing the name of Sri Chandra Koteswar Rao in the place of Sri G.R.Prabhu without obtaining the consent of the latter for the said change of name.

14. In the light of the above said discussion, this authority is of the view that the observation of the Forum is incorrect and they have simply bypassed the responsibility shouldered on them. The service connection which is in the name of Sri G.R.Prabhu has to be restored by giving a separate connection in the said building. If Sri Chandra Koteswar Rao wants to have a service connection, the same may be given in his name. If he does not want, the same can be extinguished. If he wants to continue the said service connection another service connection number may be allotted to the said Sri Chandra Koteswar Rao. The original service number has to be continued in the name of the appellant.

15. The observation made in this order is without prejudice to the rights of the parties in the civil litigation. The observation made by this authority cannot be used in the civil litigation, since it is only a consumer dispute.

16. In the result, the appeal is disposed with a direction to the respondents that the service connection which is in the name of Sri G.R.Prabhu has to be restored by giving the same service connection. If at all Sri Chandra Koteswar Rao wants to have a service connection, a separate connection may be given in his name. If he does not want, the same may be extinguished. No order as to costs.

This order is corrected and signed on this day of 4th January 2012.

VIDYUT OMBUDSMAN