

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 18 -04-2011

Appeal No. 9 of 2011

Between

Smt.Bheri Shalini
W/o.B.Anil Kumar Reddy
H.No.25/2RT, LIGH, Khairatabad
Hyderabad – 4

Smt.Venumuddala Rama Devi
W/o.Rajeshwar Reddy
H.No.38-87/19/2A, AN colony, Sainagar,
Sainikpuri, Secunderabad – 94.

... Appellants

And

1. Asst Engineer/Operation/Town/NPDCL/Ghanpur
2. Asst Divisional Engineer/Operation/NPDCL/Ghanpur
3. Divisional Engineer/Operation/ NPDCL/Jangaon

....Respondents

The appeal / representation filed on 05.03.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 30.03.2011 at Hyderabad, in the presence of Sri B.Ranjit Kumar Reddy, Brother-in-law of Smt. Bheri Shalini, Sri Yadav Reddy for Smt. V.Rama Devi for appellants and Sri E.Srinivasa Chary, DE/O/Jangaon for respondents present 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 under clause 5(7) of APERC Regulation No.1 of 2004 read with Section 42(5) of Electricity Act, 2003. Smt.

B.Shalini purchased a land from Sri Karingula Satyanarayana Reddy to an extent of 3.13 guntas and Smt.V.Rama Devi purchased the same extent of land i.e, 3.13 guntas from Sri Karingula Satyanarayana Reddy on 12.02.2008. They also obtained pattadar pass books in their favour. On 06.02.2010, they submitted that Sri K.Satyanarayana Reddy applied to transfer the service connection No.1157 in favour of his brother Sri K.Narasimha Reddy without having any right and without any notice high-handedly and the same was transferred on 11.02.2010. On 10.05.2010, the said Sri K.Satyanarayana Reddy applied to transfer the SC No.181 in favour of his brother Sri K.Narasimha Reddy without having any right and without any notice high handedly and the same was transferred on 17.05.2010. In the first week of June 2010 Sri K.Narasimha Reddy came to the borewells and without having any right or authority removed the fuses and damaged the panel board stating that the land and bore wells belonged to him (Sri K.Narasimha Reddy). They reported the matter to the police, Ghanpur, but they did not take any action as the matter was civil in nature. They also obtained injunction order in their favour on 14.07.2010 from the II Additional Junior Civil Judge, Warangal. They also approached ADE under RTI Act 2005 to furnish the details in respect of service connections and got details of service connections. They came to know that the service connections were transferred without any valid documents and the same was made based on the affidavits only. They approached ADE and produced all the documents and explained in detail to him. They have also obtained a decree in their favour on 20.09.2010. They have also requested to honour order of the court failing which, they will approach the court for justice by filing contempt of court.

2. The ADE/ construction & operation / Ghanpur filed his written submissions as hereunder:

- i. the agricultural services 1157 and 181 were in the name of Sri. K. Satyanarayana Reddy of Thatikonda-Village and Ghanpur-Mandal.*
- ii. the services were name changed from Sri. K. Satyanarayana Reddy to Sri. K. Narsimha Reddy in the months 11.02.10 and 17.05.10 on the basis of pattadar pass book and affidavit.*
- iii. in the month 07/2010 another two persons i.e., Smt. Bheri Shalini and*

Smt. Venumuddala Rama Devi came to office for name change of above said services with registered documents and pattadar pass book. He told them the services already name changed to Sri. K. Narsimha Reddy 1157 in the month 11.02.10 and 181 in the month of 17.05.10.

iv. after that Smt. Bheri Shalini and Smt. Venumuddala Rama Devi proceeded to Civil Court Warangal. The Civil Court has given injunction order on 14.07.10.

v. The Smt. Bheri Shalini and Smt. Venumuddala Rama Devi have given application on 05.10.10 for name change of above services by enclosing court judgment copy registered documents and pattadar pass books.

vi. the Assistant Divisional Engineer/Construction & Operation/Ghanpur written a letter to the Sri. M. Sadhashivudu, SLA/NPDCL for legal opinion from above C.G. No. 294/10 of Warangal Circle, Dated. 03.11.10 by enclosing the above name changed documents and court decree copy.

vii. Sri. M. Sadhashivudu, SLA/NPDCL has been given a legal opinion on 23.11.10. He has stated in legal opinion "it is not advisable either to delete the existing name or to cause a fresh name in the service record of connections, which is not desirable, if so, matter will be subjudiced".

3. After hearing both sides and after considering the material placed before the Forum, it was held that

"Not-with-standing any thing contained in the injunction orders passed by the Hon'ble II Additional Junior Civil Judge at Warangal in as much as the Forum is an independent body constituted under Section 42 of the Indian Electricity Act 2003 read with G.O. Ms. No. 21 of 06.02.2004. While so, keeping in view the all maintainable material facts, the Forum orders the respondents to effect the name change proposals in the name of Smt. Bheri Shalini, W/o. B. Anil Kumar Reddy and Smt. Venumuddala Rama Devi, W/o. V. Rajeshwar Reddy, as they have acquired the agricultural land from Sri. K. Satyanarayana Reddy, S/o. K. Laxmi Narsimha Reddy, and got registered at Sub-Registrar Ghanpuram. The Revenue Officials have also issued pattadari pass book in their favour bearing numbers 138126, Patta No. 879 and Pattadari Pass Book No. 138127 and Patta No. 878 respectively.

The respondents are further directed to conduct a physical field verification of the premises acquired by the complainants as per the records available with them to the extent of land acquired along with the services i.e., 1157 & 818 which are existing at present to strengthen this order.

The respondents are also directed to submit the detailed compliance report in this regard duly complying these orders within 15 days from the date of receipt of this orders."

4. When the order of the Forum inspite of the request made by the parties are not complied, they have approached this authority seeking justice.

5. Now, the point for consideration is, “whether the order of the Forum is ordered to be executed by this authority ? If so, on what manner?”

6. It is clear from the above said record and the order of the Forum, that the respondents were directed to conduct a physical field verification of the premises acquired by the complainants as per the records available with them to the extent of land acquired along with the services ie., 1157 and 818 which are in existence at present to strengthen the order of the Forum. It appears no field verification is made.

7. At the time of hearing of appeal, Sri B.Ranjit Kumar Reddy and Sri B.Yadav Reddy, representatives of the appellant present. Sri E.Srinivasa Chary, DE/O/Jangaon present. He has stated that the said Hon’ble High Court passed an order in W.P.M.P.No.3839/2011 in WP No.3094/2011 passed an order dt.09.03.2011 suspending impugned order of the Forum pointing further orders in the above said W.P No.3839/2011 and therefore they could not do the field verification in support of the order of the Forum. Sri K.Narasimha Reddy who claims that he is the owner of the property and accordingly transferred in his name is not a party to the said proceeding. The said Sri K.Narasimha Reddy filed W.P.No.3094/2011 and Hon’ble High court passed an interim order in WPMP No.3839/2011 as hereunder:

“Pending further orders, the impugned order of respondent No.1 is suspended.”

When the impugned order itself is suspended by the Hon’ble High Court, the question of implementation of the same order by this authority does not arise. This authority is precluded from passing any order in this appeal, as the matter is taken cognizance by the Hon’ble High Court.

12. In the light of the above said discussion and in view of the said order of the Hon'ble High court, this authority is not competent to pass any order of execution of the order of the Forum and the point is answered accordingly. The parties have to work out their rights after disposal of the above said WPMP No.3839/2011 in WP 3094/2011. No order as to costs.

This order is corrected and signed on this day of 18th April 2011

VIDYUT OMBUDSMAN