

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 30 -07-2011

Appeal No. 30 of 2011

Between

Sri B.Srinivasa Reddy
S/o.B.Appala Reddy (Late)
D.No.52-13-25/1, Resapuvanipalem
Visakhapatnam

... Appellant

And

1. Assistant Engineer / operation / Seethammadhara
2. Assistant Divisional Engineer / operation / Seethammadhara
3. Divisional Engineer/Operation/ Zone-I/ Visakhapatnam

...Respondents

The appeal / representation received on 22.06.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 18.07.2011 at Visakhapatnam. Sri B.Srinivas Reddy, appellant present Sri R.Ram Naidu, ADE/O/Seethammadhara for the 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 stating that the service connections No.024467/A041 and 054684 are existing in the premises which he has claimed to be his property and the said service connection are in the name of M/s. AV Rao and Co. and who are unauthorized occupants of the said premises and requested the Forum for redressal of his grievance.

2. The respondent No. 2 filed his written submissions as hereunder:

“The legal opinion has been obtained from BLA. According to BLA opinion it appears that there is a title dispute between the complainant and the A.V.Rao & Co. which has to be resolved in a court of law. The consumer paying the bills regularly and a reply was given to the consumer .”

3. After hearing both sides and after considering material placed before the Forum, the Forum passed an order as hereunder:

“As per the procedure to deal with the complaints received under clause No. 4.7 of Lr.No.S-325/05-01 dated 07.07.2005 issued by Hon’ble APERC”

If the subject matter of the complaint is shown pending consideration before any court, tribunal or arbitrator or any other Forum or a decree or award has already been passed by a competent court of law, the Forum can forthwith reject the complaint.

Hence, the Forum itself is not vested with power to deal with it as it does not come within the deficiency of service. Hence, the complaint is rejected.”

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the Forum referred a complaint for legal opinion and the BLA has opined that there is a title dispute for his kind information. As per the information ignoring the fact that the Asst Director, Survey & Land Records and the District Collector, Visakhapatnam has given report that the tile belongs to their family (i.e, Bodhireddy family) and the BLA opined foolishly that the complainant name is not found and therefore they have no title to the property. In the complaint itself, he stated that it is his forefathers property and he is representing this matter on their behalf also. BLA has also opined that a case was pending before Supreme Court for his kind information there was no such case in any court between Bodhireddy and AV Rao & Co. When the property is family property and how AV Rao & Co. is paying electricity charges and the opinion on the said aspect of BLA is not correct and the appeal preferred by him is to be allowed by disconnecting the service connections and issue suitable instructions to the concerned authorities.

5. Now, the point for consideration is, “whether the appellant is entitled for disconnection of the said two service connections as prayed for ?”

6. Sri B.Srinivasa Reddy, appellant present and Sri R.Ram Naidu, ADE/O/Seethammadhara present and they submitted their respective contentions.

7. It is clear from the record that the consumer is paying the bills regularly. BLA has opined that there is a title dispute between the appellant and AV Rao & Co. Admittedly, the appellant is not in possession of the property and they are not having any service connection in the said property. The said service connections are in the name of A V Rao & Co and regularly paying the CC charges. It is also clear from the very contention raised by the appellant that the respondent has unauthorisedly occupied the premises. If that is so, the department is not expected to give the service connection to a trespasser. When the appellant is not in possession of the property and when the said AV Rao & Co. is in possession of the property and when he has obtained the service connections in the name of the said company; the very representation made by the appellant to disconnect the service connections cannot be entertained unless and until he files a better title showing the said property in his name. If the said AV Rao & Co. is in possession unauthorisedly occupying the premises, it is for him to take appropriate proceedings to vacate the said company from the said premises and after obtaining vacation order, the appellant can request the respondents to disconnect the service connections from the said premises. If there is any dispute with regard to the title in between the A V Rao & Co and the appellant herein, he has to approach a Civil Court by filing a suit for declaration of title and after declaration, he can as well approach authority to disconnect the service connections. The electricity department is not competent to decide the title of the parties over the said property. At the same time the respondents have no right to disconnect the service connections attached to the premises without any valid documents in the name of the appellant, in particular when the consumer is regularly paying the bills.

8. In the light of the above said discussion, the appellant is at liberty to approach either by vacating the unauthorized occupants if AV Rao & Co. is really an unauthorized occupant or if there is any scramble with regard to title, by filing a suit for declaration of title but not by approaching the authority to disconnect the service connections.

9. The Forum has unnecessarily discussed about 4.7 of Lr.No.S-325/05-01 dated 07.07.2005 issued by Hon'ble APERC though there is no court litigation in between the parties.

10. In the light of the above said discussion, I am of the opinion that the appeal preferred by the appellant is not sustainable and the same is liable to be dismissed.

11. In the result, the appeal is dismissed. No order as to costs.

This order is corrected and signed on this day of 30th July 2011

VIDYUT OMBUDSMAN