

**BEFORE THE VIDYUT OMBUDSMAN**

Present

**K.Sanjeeva Rao Naidu  
Vidyut Ombudsman**

Dated: 03-11-2011

**Appeal No. 23 of 2011**

**Between**

Sri Budda Satyanarayana  
S/o (Late) Jogi Naidu  
D.No.17-124, Santabayalu  
Gavarapalem, Anakapalli  
Visakhapatnam

**... Appellant**

**And**

1. Asst.Engineer/operation/D1/Anakapalli
2. Asst.Divisional Engineer/operation/ Anakapalli
3. Divisional Engineer/operation/ Anakapalli

**....Respondents**

The appeal / representation received on dt 18.05.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 25.08.2011 at Hyderabad. Appellant absent and Sri S.Janardhan DE/O/Anakapalli 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 to the effect that a service connection was released in the premises where there is a civil dispute pending in the court of the Hon'ble Principal Junior Civil Judge cum special officer and requested to disconnect the service connection besides paying compensation for mental agony.

The case was registered as CG No.499/2010-11 and a notice was served on the respondent.

2. The respondent No.3 filed his written submissions as hereunder:

*“the report on Consumer Grievance of Sri Budda Suryanarayana, Santhabayalu, Gavrapalem, in D1 Section Anakapalli was registered before CGRF on 20.01.2011 Consumer petition under reference cited above. In this connection it is submitted as per the Asst. Divisional Engineer, Operation and CSC, Anakapalli the LT application was registered in favour of Tatikonda Ratnajee Rao, S/o Kameswara Rao on 11.01.2011 with supporting document copies i.e., adangal copy, pattadaar passbook duly signed by VRO and counter signed by MRO. The service was released on 13-01-2011.*

*On 13.01.2011 afternoon a telegram was received from Budda Suryanarayana not to release the new service in view of Civil suit is pending before principal Junior Civil Judge cum special officer under AP area tenant act, Anakapalli against the land situated in survey No.1538/2 and its TD No.2132 near NTR market yard Anakapalli. The report of Asst. Divisional Engineer, Operation and CSC, Anakapalli and other relevant document copies furnished to the call centre for release of service in favour of Tatikonda Ratnajee Rao are herewith submitted. Further it is submitted that the Asst Divisional Engineer, Operation, Anakapalli has sought legal opinion from BLA, Anakapalli, Legal opinion is awaiting, soon after receipt of the same necessary action will be taken accordingly, submitted for favour of information and taking necessary action please.”*

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

- “As per clause No.4.7 of Lr.No.S.325/05.06, Dt.7/07/05 of 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 complaint is herewith dismissed with no cost Accordingly, the CG.No.499/10-11 is disposed off.”*

4. (a) Aggrieved by the said order, the appellant preferred this appeal questioning the same that the appellant is the farmer owner of certain extent of land situated in survey No. 1538/2 at NTR market yard, Anakapalli but the said land is now under

court dispute in IA No. 19/2008 in ATC 4/2008 before the Hon'ble Principal Junior civil Judge's court, Anakapalli.

(b) One Mr. Thatikonda Ratnajee S/o (Late) Kameswara Rao who is one of the respondents in the said court case and illegal encroacher of the above said land and who had very cleverly purchased the duties and responsibilities of Sri P. Srinivasa Rao, ADE cum in charge of Customer Service Centre, Anakapalli by producing fake and forgery certificates and got released a new service under domestic service in a real estate office situated in the above said disputed land with the known legal complications and consequences.

(c) Clause No.47 of Lr.No.S.325/05.06, dt.07/07/2005 of Hon'ble APERC if the subject matter of the complainant 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 if true is requires that much time of more than 2 months from the date of my representation to CGRF/Visakhapatnam.

(d) The Forum passed an order in a side tracked manner even though there is a clear legal opinion not to give service connection on the land under the court dispute. The date of receipt of telegram was stated as 13.01.2011 though it was received by them on 12.01.2011. Though he approached the O/o.ADE, Anakapalli by stating the real facts but they have not considered the facts and the said ADE expected from him and he refused to do so and the Chairperson of APEPDCL was misguided by ADE and passed the above said order and the impugned order is liable to be set aside.

5. In spite of the notice issued by this authority, the appellant failed to attend before this authority on 20.07.2011. Both the appellant and respondents failed to attend before this authority and the matter was reserved for orders. After one week a telegram was received from the appellant by this authority at Hyderabad and after

receipt of his telegram, this authority reopened the matter suomotu and posted the matter to 25.08.2011 at Hyderabad. In spite of the receipt of the notice, the appellant failed to attend before this authority, but he sent copy of the material addressed to the Police and other officials to the O/o.Vidyut Ombudsman at Hyderabad.

6. Sri S.Janardhan DE/O/Anakapalli present before this authority on 25.08.2011 and submitted papers addressed to this authority, narrating the facts really happened at the time of giving service connection. The explanation was given with regard to telegram received on 12.01.2011. On 12<sup>th</sup> and 13<sup>th</sup> DE/O/Anakapalli was on camp for attending meeting at circle office and field inspection of works on 13<sup>th</sup> at Parwada. So on 13<sup>th</sup> evening it was happened to be seen and when he enquired with AE/D1/Anakapalli it was learnt that the service was already released by that time. He obtained a legal opinion and also issued a notice to the said Ratnaji to submit his documents and also addressed a letter to the Tahsildar, Anakapalli for clarification. On 07.05.2011, the Tahsildar / Anakapalli has clarified through a fresh adangal copy dated 07.05.2011 stating that the owner of the land is Sri Tatikonda Ratnaji Rao. The contents of the adangal copy submitted by the appellant were denied by the Tahasildar. He also clarified that there was no procedures or rules in existence to put a special note in the copy of adangal as sufficient columns were already prescribed in the adangal. Under those circumstances, the service connection was released and the same was not disconnected.

7. A copy of the letter marked to this authority which was originally addressed to Inspector of Police, Anakapalli in which it is mentioned that the land was under the enjoyment of Thatikonda Kameswara Rao since long time. He claimed that the Ratnaji rao produced fabricated revenue records of patta pass book which was got it illegally in getting new service connection under domestic purpose without having any domestic construction in survey no. 1538/2 and he requested the police to initiate action against the concerned officials as well, the said Ratnaji Rao S/o Kameswara Rao.

8. The very appeal grounds clearly disclosed that the Ratnaji encroached the said land. It is also mentioned in the said appeal grounds that an IA No.19/2008 in ATC 4/2008 before the Hon'ble Principal Junior Civil Judge Court, Anakapalli are pending. This clearly shows that this is a dispute between the landlord and tenant. At one breadth, he says that the said Ratnaji Rao is an encroacher and in other breadth he says that a tenancy case is pending. This matter is a civil dispute in between the parties. He has not claimed specifically that the said Ratnaji Rao is a tenant in any one of the papers submitted either to the Police or to this authority. It is purely a civil dispute between the parties. The respondents have clearly established that they obtained the relevant documents from the concerned about the title and after obtaining legal opinion only, they could not disconnect the service connection. The civil dispute is not brought to the notice of the respondents before giving service connection to the said premises. So the said regulation is not applicable to this case. Even otherwise, the appellant has not obtained any order in restraining the respondents from giving service connection. He has not produced any interim order before the Forum or before this authority restraining the respondents not to give service connection or any order to remove the connection already given. He has not filed a copy of the tenancy petition before this authority to show the real nature of the case and title over the property at least to know whether, the appellant herein is claiming as owner or otherwise, if so, against whom.

9. The appellant is at liberty to move the civil court i.e., concerned authority to disconnect the service connection. In the said proceedings he has not moved the court on those lines. When there is a scramble between the parties with regard to title or with regard to respective status, they can as well workout remedies in a competent civil court, but not by approaching this authority to pass an order to disconnect the service connection. If the appellant has got better title than the said Ratnaji Rao he can as well appear before the competent civil court and get the encroacher to evict from the said premises. He pleads that the said Ratnaji is an encroacher and when he is an encroacher he can move the court to evict the encroacher by obtaining eviction order from the competent civil court, but not by

approaching the authorities to disconnect the service connection without producing any valid documents before the authorities. Instead of approaching the competent civil court to get his title declared over the said property, the appellant has adopted the method of approaching the Forum as well as this authority to cause inconvenience to the respondents by obtaining disconnection order to the said premises. No valid ground is established by the appellant before this authority to pass an order to disconnect the service connection.

10. The appellant is at liberty to move the competent civil court and obtain suitable orders for eviction as well as disconnection of service connection but not by approaching this authority. There are no merits in the appeal and the appeal preferred by the appellant is not maintainable under law.

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

This order is corrected and signed on this day of 3<sup>rd</sup> November 2011

**VIDYUT OMBUDSMAN**