



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Wednesday, the Fifth day of July 2017

Appeal No. 35 of 2015

(Old Appeal No. 73 of 2014-15)

Preferred against Order Dt. 29.09.2014 of CGRF In

CG.No: 245/2014 of Hyderabad North Circle

Between

Smt. L. Uma Devi, H.No. A-2, President Banjara Apartments, Road No. 2,
Banjara Hills, Hyderabad - 500 034.

..... Appellant

AND

1. The AE/OP/Jubilee hills/TSSPDCL/Hyderabad.
2. The ADE/OP/Jubilee hills/TSSPDCL/Hyderabad.
3. The AAO/ERO/Banjara hills/TSSPDCL/Hyderabad.
4. The DE/OP/Erragadda/TSSPDCL/Hyderabad.
5. The SE/OP/Hyderabad North/TSSPDCL/Hyderabad.
6. Smt. M. Shashireka W/o. Sri. Mohanchend, H.no. 8-2-686/7/5, Road No.12,
Banjarahills, Hyderabad.
7. Smt. Katasani Jayamma W/o. Sri. Katasani Rami Reddy, H.No. 9-115, Muttu
Miya Street, Near State Bank of India, Banaganapalle, Kurnool District.

..... Respondents

The above appeal filed on 03.11.2014 came up for final hearing before the Vidyut Ombudsman, Telangana State on 28.06.2017 at Hyderabad in the presence of Sri. L. Ratna Kumar - On behalf of the Appellant and Sri. P. Shiva Krishna Prasad - ADE/OP/Jubilee Hills, Sri.M. Raju, Advocate on behalf of the R7 for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

1. This Appeal was originally disposed of by an Award dt. 03.08.2015. In this case, a notice to the 6th Respondent Smt.M. Shashireka was issued to appear in the matter as she was found to be a necessary party claiming right in the premises, which is being claimed by the Appellant as her own and who sought cancellation of the service connection issued in the name of Smt.M.Shashireka. Though notice was served on her, she failed to appear at the prescribed time. An advocate by name Sri. Myakala Srinivas Rao submitted a letter on her behalf seeking copies of documents, without filing any vakalat or authorisation letter from her. Thus the matter came to be disposed of by Award dt.3.8.2015.

2. Smt. M.Shashireka, the 6th Respondent herein filed WP No. 25095 of 2015 in the Hon'ble High Court seeking a direction to declare the Award dt.3.08.2015 as illegal and void and violative of the principles of the natural justice. The Hon'ble High Court by Order dt.24.11.2016 held that the writ petitioner/6th Respondent herein is a necessary party and without impleading and hearing her and giving an opportunity of hearing further goes to the root of the matter, and restored the file in Appeal No. 35 of 2015 and impleaded the 6th Respondent in this Appeal and directed the 6th Respondent to file Vakalat within 2 weeks from 4.11.2016 in the Appeal. The present Appeal is thus coming up for fresh hearing. A notice was given to the 6th Respondent, in the absence of her filing of vakalat within the time fixed by the Hon'ble High Court. During the hearing, it came to light, that the 6th Respondent had disposed of the property in question in favour of the 7th Respondent by way of a Regular Sale Deed dt. 30.7.2015, even before the disposal of the present Appeal on 3.8.2015 and without mentioning about the sale in the WP No. 25095/2015. The matter is taken up after notice to all the parties.

3. The Appellant, during the course of hearing, filed a letter dt.30.3.2017 stating that even prior to the disposal of the present appeal on 3.8.2015, the 6th Respondent appeared to have sold the property in question by way of a registered sale deed dt.30.7.2015 in favour of Smt. Katasani Jayamma,(R7) resident of Kurnool District who is also required to be a party to the present Appeal and therefore, Smt. Katsani Jayamma(R7) has been impleaded as the 7th Respondent in this case and on her behalf, Sri. Myakala Srinivas Rao, Advocate filed vakalat. The 6th Respondent Smt. Sasirekha, in spite of receiving notice, failed to make an appearance in the present Appeal.

4. The facts leading to the present appeal are as follows:-

The Appellant claimed to be the absolute owner of Plot No 21, Devarakonda Nagar, Road No. 52, measuring 545 Square Yards in Survey No. 93 of Shaikpet, SeriLingampally. She requested the 2nd Respondent, several times, to remove the unauthorised and illegal service connection No. A 9054695. She claimed that she has also applied for a new service connection vide her Application dt. 27.6.2014. She received a message from the Respondents to the effect that the meter was released on 20.6.2014, but it was not connected so far due to ownership dispute. The Appellant then filed a complaint before the CGRF enclosing a copy of Order Dt. 7.04.2014 in W.P.No. 26305 of 2009 of the Hon'ble High Court and requested the Respondents to remove the unauthorised service connection no A.9054695 and release a new Service in her name.

5. The Respondents admitted the application of the Appellant for new service connection and claimed that when their lineman went to the premises, they found the Service Connection No. A9054695 in the name of Smt. Shashireka,(R6) and therefore, they have rejected the application of the appellant for a new Service Connection.

6. Before the CGRF, both parties appeared and after hearing them, CGRF felt that the subject matter is a civil dispute and therefore, opined that it is not a fit case to entertain and rejected the complaint through the impugned orders 29.9.2014.

7. The Appellant claimed that she had approached the Hon'ble High Court and obtained orders in W.P.No. 26305 of 2009 dt. 7.4.2014, directing the GHMC to consider the application of the Appellant for construction permission. This order shows that the construction permission granted in permit No 179/41 and 179/42 covering the plot of the Appellant purportedly on the application of the Appellant and 3 others were revoked by GHMC. The Appellant claimed that a third person by name Smt. M. Shashireka, who has no interest in the plot of the Appellant, obtained an illegal SC.No. A9054695 without having any title to the land and requested it to be disconnected immediately.

8. In the Appeal, the Appellant submitted a copy of letter dt.3.11.2014 stating that the service connection released in favour of the 6th Respondent has to be cancelled as she is not a person having any right/title to the premises and further there is no case pending against the land and hence sought a direction to the DISCOM to disconnect the Service Connection No. A905 4695 and sought release of a new

Service Connection through her letter dt.13.8.2014 addressed to the CGRF.

9. The 7th Respondent who claimed that she has purchased the property from the 6th Respondent filed counter on 14.6.2017 with the Allegation that the Appellant herein has filed a suit for declaration of title and recovery of possession in OS No. 176/2016 pending disposal on the file of the III Additional Chief Judge, City Civil Court Hyderabad which clearly shows that the title of the Appellant is in dispute and she is not in possession over the property in question. On this sole ground, the 7th Respondent claimed that the Appeal is liable to be dismissed and this institution has no jurisdiction to entertain the present Appeal.

10. The 7th Respondent further stated that the Hon'ble Court (Civil) granted Status Quo order but when the Appellant herself claimed that she is not in possession and seeking recovery of possession, it shows that it is in fact the Respondent No. 7 who is in possession and enjoying the property as an absolute owner having purchased 300 Sq yards from its rightful owner under a registered sale deed dt.12.6.2015 and also purchased 500 Sq yrds under a registered sale deed document No.3536/2015 from the Respondent No. 6 herein and thus, she became the absolute owner of 800 Sq Yrds and thus, the award in this appeal dt.3.8.2015 is not an executable order.

11. The efforts at mediation failed to succeed, because of the peculiar facts of the case. Therefore, the Appeal is being disposed of on merits.

Arguments heard.

12. The following points arise for determination:-

1. Whether the Appellant is entitled to release of a new Service Connection in her name?
2. Whether the Appellant is entitled to get the service connection A9054695 removed and dismantled?
3. Whether the CGRF is justified in rejecting the complaint on the ground that a civil dispute is involved as alleged by the Respondent No.7?

POINTS 1 TO 3

13. The Appellant claims to be the owner of Plot No. 21, Devarakonda Nagar, measuring 545 Square Yards in Sy.No.93 of Shaikpet, Road No. 52, Jubilee Hills, Serilingampally. She filed documents in support of her plea like copy of sale deed

dt. 27.08.1992 executed by about 40 persons represented by GPA Sri. D. Vittal Rao in her favour with a plan. She also filed a copy of GPA Doc.No. 96 of 1989 stated to have been executed by the vendors/owners mentioned in the sale deed in favour of Sri. D. Vittal Rao, who in turn executed the sale deed in favour of the Appellant. The Appellant also filed a copy of exemption granted under Urban Land (Ceiling and Regulation) Act 1976 in favour of the main vendors in the sale deed, proceedings of the special officer and competent authority, under the land ceiling Act in C.C.No. E1/11105/76 dt. 31.8.1987 in favour of vendors covered by the sale deed and sanction of plots in the land by the MCH hyderabad dt. 28.1.1991 and also a copy of town survey register. The Appellant filed copies of Encumbrance on property showing her document in the statement and copy of pahani for 1983-84 showing Gorenkela Rangaiah/Vendor as the pattadar of Sy.No. 92 and 93 of Shaikpet, supporting her sale deed. These documents clearly show that the Appellant secured title to her plot under the registered sale deed dt. 27.8.1992.

14. The Respondents 1 to 5 filed a report on the direction of the Vidyut Ombudsman, with copies of application and documents like copy of the sale deed of the 3rd party Smt. M.Shashireka seeking release of Service Connection to the same plot. Smt. M. Shashireka in this application claimed to be the owner of the plot and in her support, she filed a copy of sale deed dt. 10.11.2011 showing alienation of 500 Square Yards out of 1157 Square Yards in Survey No. 93, TS No.11, Block-D,Ward-9, situated adjacent to Journalists Colony, Banjara Hills, Hyderabad executed by 7 persons who claimed that they derived their title from Sri. Gorenkala Rangaiah, who is stated to be father in law of Vendor No. 1 Smt. Laxmi Narsamma and grandfather of vendors 2 to 7. The legal heirs of Sri. Gorenkala Rangaiah claimed that they have inherited the property and thus were alienating it. There are absolutely no details of how they acquired the property, after it was sold under Regular Sale deed dt.27.8.1982 and who else inherited the properties, apart from them. Out of the blue, these people came into picture and executed a sale deed for a different extent not by Plot No. which on the face of it, prima facie appears questionable. The town survey register discloses Gorenkala Rangaiah as the original registered pattadar, while the vendors of the Appellant as his legal heirs. Prima facie the copy of sale deed of the third party(R6) does not inspire confidence and it is an inspired document, which is clear from the face of it and the Respondents 1 to 5 ought to have seen that when the real owner of the plot, who is the Appellant approaches them with a complaint, they should have attended to it immediately and passed suitable orders dismantling the SC.No. A9054695 in the name of the third party

Smt. Shashireka and issued a new Service connection in the name of the Appellant, which is not done.

15. Releasing a new connection and dealing with it is within the jurisdiction of the Respondents 1 to 5 and it follows that this duty is not discharged properly by both the Respondents 1 to 5 and it has been overlooked by the CGRF.

16. During hearing of the Appeal, it is felt that since the interest of a third party by name Smt. M. Shashireka is involved, she should be given an opportunity to represent her case, to decide the appeal because she is not a party before the CGRF. On the directions of the Vidyut Ombudsman, the Respondent No. 2/ADE/OP/Banjara Hills issued a notice to Smt. M. Shashireka(R6) vide his letter dt. 22.6.2015 requesting her to submit her supporting documents, since the Appellant was claiming to be the owner of the plot and filed copies of sale deed, order of the special officer and competent authority, urban land ceiling, Encumbrance certificate and building construction permission. To this letter, Smt. M. Shashireka(R6) replied stating that she is the real owner of the plot having purchased it from the original pattadar vide Registered document No. 3927 of 2011. She gave no other particulars about her right.

17. This office issued a notice to Smt. Shashireka on 16.7.2015 to appear in this Appeal on 27.7.2015 at 11.30 A.M which was served on her. She failed to appear till 12.40 PM while other parties were present(except R7 who was later added). Arguments were heard and the matter was reserved for orders.

18. On 25.7.2015 One Myakala Srinivas Rao, advocate submitted a letter dt. 25.7.2015 addressing this office stating that he is appearing on behalf of Smt. M. Shashireka(R6) and that the case is posted to 27.7.2015 at 11.30 Am and for that purpose, he sought copies of documents filed by the Appellant. He claimed that Smt. M. Shashireka(R6) is the genuine owner of the plot and she is in physical possession of the plot since 3 years without any interruption. He has not filed any Vakalat representing his client. This application was directed to be put up on 27.7.2015 along with the Appeal.

19. After the matter was reserved for orders on 27.7.2015 at about 12.40 PM, Sri Myakala Srinivas Rao, Advocate at about 1P.M. entered into the office and started demanding as to what happened to his application dt 25.7.2015 for supply of copies. When he was pointed out that he did not have authority to represent Smt. M. Shashireka, he stated in high pitched voice that he would take appropriate steps and file affidavit in the high court and started arguing with the Vidyut

Ombudsman. About 2 to 3 hours later, he came along with the one Smt. M. Shashireka and made her to say that she has not received any notice from this office and that the matter has to be reheard. She was firmly told that the matter was posted on 27.7.2015 for appearance at 11.30 AM and it was her duty to appear herself or through her authorized representative and plead whatever she wanted. From this letter of the advocate, it is clear that Smt. M. Shashireka has received the notice from this office. The returned RPAD cover addressed to her has an endorsement to the effect that it was 'unclaimed'. This was the letter on the basis of which the advocate and Smt. M. Shashireka started the issue here. Smt. M. Shashireka had ample notice to appear and present her case. She has not availed the opportunity to represent her case and absented herself and thereby, tried to prevent disposal of the matter by making allegations.

20. The record shows that the documents filed by the Appellant prima facie support her claim that she is the owner of the plot having acquired it from the original owners through their legitimate GPA, who executed her sale deed with valid power in 1992 and she was also issued Municipal sanction for construction in her plot. The Appellant has also agitated successfully against the sanction of construction plan in her plot against others as it is clear from the orders in WP.No. 26305/2009 dt. 7.4.2014. The record also shows that Smt. M. Shashireka(R6) prima facie, is not the owner of the plot as her vendor's title, it appears, is prima facie dubious and she is not entitled to release of any Service connection in her name in the plot of the Appellant. The claim of the title over the plot in question by Smt. M. Shashireka is totally negated by her documents, which have no credibility. This view also applies to the claim of R7 too, as she claims to derive her title to the premises in question through R6 Smt. M. Shashireka. By claiming that there is a title dispute, the jurisdiction of Vidyut Ombudsman is questioned. If there is any dispute over title of an applicant prima facie, then the question of jurisdiction Under Clause 2.37 of Regulation 3 of 2015 would arise. Only to defeat a claim merely raising a dispute would not deter the Vidyut Ombudsman/CGRF in resolving a consumer dispute.

21. The question of jurisdiction is raised by R7 on the ground that there is a civil dispute pending relating to the premises in question. Under Clause 2.37 of the Regulation 3 of 2015 which says that "where proceedings in the respect of the same matter or issue between the same complainant and the Licensee are pending before any Court,tribunal,arbitrator or any authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority as the

case may be” and from this Clause it is clear that only then under Clause 2.37 of Regulation 3 of 2015, the CGRF and in turn the Vidyut Ombudsman would loose Jurisdiction to decide the dispute. In the present case, it is seen that the Appellant herself stated to have filed a civil case against her adversaries and it has nothing to do with the present issue. Thus the contention of the Respondents 6&7 that the CGRF has no jurisdiction to decide the issue is negatived. The issues are answered accordingly.

22. In the result, the Appeal is allowed:

- a. The impugned order is set aside.
- b. The Respondents are directed to cancel the SC.No. A9054695 released in the name of Smt. M. Shashireka in the plot of the Appellant and
- c. The Respondents are directed to release a new Service Connection to the plot of the Appellant in her name, expeditiously after following the due procedure.

23. The licensee shall comply with and implement this order within 15 days for the date of receipt of this order under clause 3.38 of the Regulation 3 of 2015 of TSERC.

Typed by CCO, Corrected, Signed and pronounced by me on 5th day of July, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. Smt. L. Uma Devi, H.No. A-2, President Banjara Apartments, Road No. 2, Banjara Hills, Hyderabad - 500 034.
2. The AE/OP/Jubilee hills/TSSPDCL/Hyderabad.
3. The ADE/OP/Jubilee hills/TSSPDCL/Hyderabad.
4. The AAO/ERO/Banjara hills/TSSPDCL/Hyderabad.
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6. The SE/OP/Hyderabad North/TSSPDCL/Hyderabad.
7. Smt. Shashireka W/o. Sri. Mohanchend, H.no. 8-2-686/7/5, Road No.12, Banjarahills, Hyderabad.
8. Smt. Katasani Jayamma W/o. Sri. Katasani Rami Reddy, H.No. 9-115, Muttu Miya Street, Near State Bank of India, Banaganapalle, Kurnool District.

Copy to:

9. The Chairperson, CGRF, TSSPDCL, Greater Hyderabad Area, Erragadda, Hyderabad.
10. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.