



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: **Smt. UDAYA GOURI**

Monday the Twenty First Day of May 2018

Appeal No. 41 of 2017

Preferred against Order Dt.30.10.2017 of CGRF
in CG.No.556/2017-18/ Banjara Hills Circle

Between

Smt. L. Uma Devi, H.No.A-2, President Banjara Apartments, Road No.2,
Banjara Hills, Hyderabad - 500 034. Cell No. 9440943420.

... Appellants

AND

1. Smt. Katasani Jayamma, Sy.No.93, TS No.11, Block No.D, Ward No.9,
Journalist Colony,Jubilee Hills, Hyderabad. Cell: 9059332622.
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/Banjarahills Circle/TSSPDCL/Hyderabad.
6. Sri. Keshavaiah, H.No.8-2-293/82/DKN, Journalist Colony,Jubilee Hills,
Hyd - 81.

... Respondents

The above appeal filed on 15.12.2017, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 08.05.2018 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. K. Chandra Mohan - AAO/ERO/Banjara Hills and Counsel of R1 for the Respondents are present and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

This is an appeal filed by the consumer namely Smt. L. Uma Devi a resident of President Banjara Apartments, Road No. 2, Banjara Hills, Hyderabad. The Appellant

averred that she has filed the complaint before the CGRF-II on 28.08.2017 seeking for dismantlement of Service Connection bearing No. SC No. A9054697 installed in a plot which stands in the name of One B. Keshavaiah contending that she has purchased a house plot bearing No. 21 admeasuring 545 Sq. yards under a registered sale deed bearing document No. 3247 of 1992 in Survey. No. 93 of Shaikpet Village, Hyderabad and also got the said plot approved by the GHMC for construction of a house vide Orders No. 42034/HO/CZ Circle No. 10/2015 as per the directions of the Hon'ble High Court of Andhra Pradesh and that in the meantime the said Sri. B. Keshavaiah created false documents, approached the TSSPDCL and obtained electricity connection vide SC No.A9054697 in the said premises and is not paying any heed to her request for removing the said connection and that in spite of her adducing sufficient documentary evidence the learned CGRF rejected the said complaint hence aggrieved by the same the present appeal is filed.

2. The Respondent No.2 through Respondent No.1 filed a written submission vide Lr.No. 653/ dt.22.09.2017 stating that SC No. A9054697 was released on 27.06.2012 on the registered sale deed executed in favor of Sri. B. Keshavaiah and that the said Sri. B. Keshavaiah sold the said property to One Katasani Jayamma vide registered document bearing No. 2730 of 2015 on 12.06.2015.

3. A perusal of the order of the CGRF shows that the CGRF after considering the documentary evidence on record and the oral submissions made by the parties disposed the said complaint on the ground that it has no jurisdiction to entertain the matter which is subject to civil dispute pending in any Court of Law.

4. Hence a perusal of the averments and the written submissions of both the Appellant and the Respondents show that they have made the following averments:

(i). The Appellant Smt. L. Uma Devi w/o. Sri. L. Ratna Kumar pleaded to remove the illegal electricity connection SC No. A9054697 installed in her plot (property). It was stated that she has purchased a house plot bearing No. 21 (545 Sq. Yards) through a registered sale deed No 3247/1992 dt. 27-08-1992 in survey No. 93 of Shaikpet village, Hyderabad. That she has submitted house plan to GHMC for approval and same was approved by GHMC vide orders No 42034/HO/CZ Cir-10/2015 through the directive of the Hon'ble high court of Andhra Pradesh. That in the meantime one B.Kesavaih

had created a false documents and approached TSSPDCL and obtained a electricity connection SC No. A9054697 in her 545 Sq Yds property, to which she has complained numerous times for removal of said connection.

(ii). She has added a written statement received on dated 8.5.2018, in addition to the original appeal to include as part of her written statement. It was stated that Gorenkala Rangaiah passed away subsequent to the execution of her sale deed. The legal heirs of Gorenkala Rangaiah with connivance of Smt. K. Sasirekha w/o Mohan Chand and Sri.B.Keshavaiah S/o B. Sriramulu have got two more sale deed executed in their favour vide doc no 3927/2011 dt 10-11-2011 and doc No 3928/2011 dt 10-11-2011 under the same survey no 93. These sale deeds were executed with an evil design to deny her property and disturb her position. Both Smt. K.Sasirekha and Sri. B. Keshavaiah were able to get electricity connection under SC No. 9054695 and SC No. 9054697 respectively and got the same installed in her property i.e plot no 21 by laying to poles and thus encroaching into her property. In the matter of same issue the Hon'ble Vidyut Ombudsman in the appeal no 35 of 2015 had given orders directing the TSSPDCL to disconnect the electricity connection SC No. 9054695 given to Smt. K. Sasirekha and also to provide her a new electricity connection. Subsequently Smt. K Sasirekha had approached the Hon'ble high court and obtained a stay order. It was argued that Smt. K. Sasirekha had never attended the proceedings of the Hon'ble Vidyut Ombudsman and chose to file a stay petition before the Hon'ble high court. That she had filed vakalat against the stay orders, further requested the Hon'ble Vidyut Ombudsman to instruct the TSSPDCL to file a counter before the Hon'ble high court for getting early vacation of stay. After obtaining the stay order from the Hon'ble high court, Smt. K Sasirekha and B. Kesavaiah had sold their property to Smt. K.Jayamma in violation of natural law and also with evil intention to create litigation and complications.

(iii). She had further stated that she had filed and O.S 176 of 2016 before the III Additional Chief Judge City Civil Court with the request to cancel the sale deed executed in favour of Smt. K. Sasirekha and Sri. B. Keshavaiah (As the same is evidently illegal)/ the same is pending

before Hon'ble high court.

(iv). Since she had obtained the favorable orders from the Hon'ble Vidyut Ombudsman for disconnecting and removal of the existing Service connection SC No. 9045695, has pleaded for similar relief for disconnecting service provided to Sri. B.keshavaiah with SC No. 905697 stated to falls under her premises.

(v). Sri. Myakala Srinivas rao advocate on behalf of K.Jayamma has filed a counter written statement under the following grounds.

a. A civil suit in O.S.No.176 of 2016 is pending, the suit is a comprehensive suit of title and recovery of the possession.

B. The earlier appeal filed by the present appellant before your authority in Appeal No. 35 of 2015 dt. 05.07.2017 was challenged by me before the Hon'ble High Court passed interim order in my favor.

c. The present appeal filed by the present Appellant is clearly attracts the adjudicate. The subject matter of the appeal is pending before the Hon'ble High Court in W.P.No.24476 of 2017.

d. The Appellant herein categorically admitted that she is not in a possession over the subject matter of the Appeal land.

e. This Hon'ble authority have no jurisdiction to entertain the civil disputes herein appeal subject matter of property is under dispute.

5. The Appellant Smt. L. Uma Devi relied on the orders in Appeal No. 35 of 2015 dt.5.7.2017 of Vidyut Ombudsman stating the subject is similar in nature towards removal of existing electricity service connection in the disputed land. The Respondent No.1 Smt. K. Jayamma relied on the stay orders accorded by the Hon'ble High Court in WP No. 24476 of 2017 on the Vidyut Ombudsman orders in Appeal No. 35 of 2015 and the pending OS No. 176 of 2016 vide I.A. Number 518 of 2016.

6. The above mentioned averments submitted by both sides before this authority clearly shows that a civil dispute with regarding to the property on which the service connection in question i.e. SC No. A905697 is situated wherein the Appellant herein questioned the title of the Respondent No.1 and the same is still pending. So also the civil matter pertaining to SC No. 9045695 located on the same property is pending before the Hon'ble High Court after this authority disposed the said matter.

7. As such now the point for consideration is whether the O/o Vidyut Ombudsman has jurisdiction to entertain the present Appeal of which the subject matter is pending before the Civil Court apart from the connected matter pending before the Hon'ble High Court?

8. A perusal of Regulation 3 of 2015 Clause 2.37 (a) of TSERC shows that it mandates certain limitations for accepting an appeal and the said limitation shows that when the proceedings in 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, the Ombudsman has no jurisdiction to entertain an appeal in such instances.

9. The admitted facts before the Court show that the Appellant filed OS No. 176 of 2016 on the file of 3rd Additional Chief Judge, City Civil Court, Hyderabad against the Respondent No.1 and another and that a Writ Petition Vide WP No. 24476 of 2017 in the connected matter i.e. SC No. 9045695 against Smt. K. Sasirekha are pending. As such this authority finds that it has no jurisdiction to entertain the present Appeal in view of Regulation 3 of 2015 Clause 2.37(a) of TSERC. Hence rejects the Appeal on the said ground.

10. The Appellant further prayed to direct TSSPDCL to file a counter before the Hon'ble High Court for getting the stay vacated in the Writ Petition. This authority rejects even the said plea on the ground that it has no jurisdiction to give such direction.

TYPED BY Clerk Computer Operator, Corrected, Signed and Pronounced by me on this the 21st day of May, 2018.

Sd/-

Vidyut Ombudsman

1. Smt. L. Uma Devi, H.No.A-2, President Banjara Apartments, Road No.2, Banjara Hills, Hyderabad - 500 034. Cell No. 9440943420.

2. Smt. Katasani Jayamma, Sy.No.93, TS No.11, Block No.D, Ward No.9, Journalist Colony, Jubilee Hills, Hyderabad. Cell: 9059332622.
3. The ADE/OP/Jubilee Hills/TSSPDCL/Hyderabad.
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7. Sri. Keshavaiah, H.No.8-2-293/82/DKN, Journalist Colony, Jubilee Hills, Hyd - 81..

Copy to :

8. The Chairperson, CGRF, Greater Hyderabad Area, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad.
9. The Secretary, TSERC, 5th Floor Singareni Bhavan, Red Hills, Lakdikapul, Hyd.