



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

SATURDAY THE SIXTH DAY OF AUGUST
TWO THOUSAND AND TWENTY TWO

Appeal No. 02 of 2022-23

Between

Smt. Palabatla Hemalata, w/o. Sri P. Shiv Kumar, aged about (47) years,
r/o. H.No.18-397, Sy No. 263, Pargi Road, Shadnagar, Farooq Nagar
Municipality, Ranga Reddy District - 509 217. Cell: 9866633081/7036205211.

.....Appellant

AND

1. The Assistant Engineer / Operation / Shadnagar / TSSPDCL / Ranga Reddy District - 509 216.
2. The Assistant Divisional Engineer / Operation / Shadnagar / TSSPDCL / Ranga Reddy District - 509 216.
3. The Divisional Engineer / Operation / Shadnagar / TSSPDCL / Ranga Reddy District - 509 216.
4. The Senior Accounts Officer / Operation / Rajendra Nagar Circle / TSSPDCL/ Ranga Reddy District.
5. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL / Ranga Reddy District.

..... Respondents

This appeal is coming on before me for final hearing on 28.07.2022 in the presence of Kumari Nishtha, authorised representative of the appellant and Sri D. Veera Swamy - SAO/OP/Rajendra Nagar representing the respondents and having stood over for consideration till this day, this Vidhyut Ombudsman passed the following:-

AWARD

INTRODUCTION

WATER AND ELECTRICITY SUPPLY FORM A
PART OF RIGHT TO LIFE UNDER ARTICLE 21
OF THE CONSTITUTION OF INDIA

(Madanlal v. State of Himachal Pradesh
2018 SCC On Line HP 1495 DB)

2. This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum -2 (Greater Hyderabad Area), Hyderabad - 45 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL'), in C.G.No.148/2021-22/Rajendra Nagar Circle dt.25.03.2022.

CASE OF THE APPELLANT

3. The appellant has purchased the open land (plot) measuring 614 sq. yards in Sy No. 263, Pargi Road, Shadnagar, Farooq Nagar Municipality, Ranga Reddy District under a registered sale deed dated 09.12.2019 from one Shyam Sunder Agarwal. The vendor of the appellant had purchased Ac.0.20 guntas of land in Sy.No. 263 in his individual capacity from one Govardhandas Bangad under a registered sale deed bearing document No. 47/1991 dated 07.01.1991.

4. The appellant paid the prescribed charges on 20.01.2022 online, for supply of new Service Connection under domestic category to the plot referred above. Respondent No.1 refused to release the new Service Connection without assigning any valid reason. Therefore it is prayed to direct the respondents to

release the new Service Connection to the appellant basing on the online registration referred to above.

AWARD OF THE FORUM

5. After hearing the complainant and after considering the material on record, the learned Forum has rejected the complaint of the appellant in terms of Clause 2.37 of Regulation No. 3 of 2015 (in short 'the Regulation') mainly on the ground that W.P.No. 17271 of 2009, W.P.No. 9159 of 2004 (W.A. No. 2159 of 2004), W.P. No. 678 of 2000 and also S.L.P.No. 13785 - 13937 of 2012 are pending.

6. Aggrieved by the Award passed by the Forum, the present appeal is preferred, contending among other things, that the Forum has not considered the material placed before it properly; that the liability of the industry cannot be fastened on the appellant and that the appellant has a fundamental right to get electricity Service Connection. Therefore it is prayed to direct the respondents to release new Service Connection to the appellant.

GROUND OF THE APPEAL

7. In the grounds of appeal, it is, inter-alia, submitted that the Award of the Forum is illegal, unjust and unsustainable and without assigning any reasons and therefore it is prayed to set aside the Award of the Forum and pass Award as stated above.

8. In the written submissions filed by respondent No.5 before this authority, it is, inter-alia, submitted that the industry is due to pay huge amount of arrears of electricity charges; that several Writ Petitions are also pending before the Hon'ble Court and that the respondents have the right to demand the arrears of the electricity dues of the industry from the purchaser of the land.

9. In the written submissions it is also submitted that the vendor of the appellant was Director of the industry. The industry fell due, a huge amount of electricity consumption charges. Therefore, unless the said arrears are cleared by the appellant, no new Service Connection will be released to the appellant, who purchased the house plot from the Director of the industry.

10. In the reply filed by the appellant to the written submissions of the respondents, it is reiterated that the appellant is a third-party to the industry and that she purchased the personal property of her vendor who has a right to sell it. Therefore, it is prayed to allow the appeal.

ARGUMENTS

11. The learned authorised representative of the appellant has submitted that the appellant has purchased a house plot from a private party not connected to the industry and that the appellant paid requisite charges and made online application to the respondents for release of new Service Connection. Therefore, it is prayed to direct the respondents to release the new Service Connection to the appellant.

12. On the other hand, on behalf of the respondents, it is argued that since the appellant has purchased the plot from the Director of the industry, the respondents have every right not to release new Service Connection to the appellant as the industry fell due to pay the arrears of electricity bills. Therefore it is prayed to reject the appeal.

POINTS

13. The points that arise for consideration are:-
- 1) Whether in view of pendency of Writ Petitions etc., the complaint or the appeal is liable to be rejected ?
 - 2) Whether the house plot purchased by the appellant is the private property of her vendor or the property of the industry?
 - 3) Whether the appellant is entitled for release of new Service Connection to her house plot involved in this appeal?
 - 4) Whether the Award passed by the Forum is liable to be set aside?
and
 - 5) To what relief.

SETTLEMENT BY MUTUAL AGREEMENT

14. Both the parties have appeared before this authority on 28.07.2022. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement could be reached. The hearing, therefore, continued to provide reasonable opportunity to both the parties to put-forth their case and they were heard.

REASONS FOR DELAY IN DISPOSING OF THE APPEAL

15. Since I took charge as Vidyut Ombudsman on 01.07.2022 and since there was no regular Vidyut Ombudsman earlier, the appeal was not disposed of within the prescribed period.

POINT No.1

ADMITTED FACTS

16. The admitted facts are that the appellant has purchased a house plot under a registered sale deed dated 09.12.2019, from her vendor. The industry is due to pay a heavy amount of arrears of electricity consumption charges to the respondents. That industry is not existing at present.

17. The respondents have alleged that since various Writ Petitions are pending before the Hon'ble High Court and also a Special Leave Petition before the Hon'ble Supreme Court, the complaint and the appeal are not maintainable. At this stage it is necessary to refer to Clause 2.37 of the Regulation which reads as under:-

“The Forum may reject the grievance at any stage under the following circumstances:

a) Where 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 other 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;”

xxxxx

Though the respondents took the ground of pendency of cases, the respondents have not established that the parties and the claim in the said proceedings and in the present appeal are one and the same. That being the case, Clause 2.37 of the Regulation is not applicable in this case. Therefore, I hold that pendency of Writ Petitions etc., is not a ground for rejecting the complaint and also the present appeal. This point is accordingly decided in favour of the appellant and against the respondents.

CRUX OF THE CASE

POINT Nos.2 and 3

18. The appellant claims that she is a third-party to the industry. Like-wise her vendor. They are nothing to do with the dues of the industry. The claim of the respondents is that the industry fell due to pay arrears of the electricity charges of its High Tension (HT) Service Connection No.RJN 1890 (old S.C.No.MBN361) and it was terminated. Since the appellant purchased a plot from her vendor, who is allegedly connected to the industry, the respondents do not want to release a new Service Connection to the plot purchased by the appellant unless the arrears of the industry are paid. At this stage it is necessary to refer to Clause 8.4 of the General Terms and Conditions of Supply (in short 'the GTCS') which reads as under:-

“The seller of the property should clear all the dues to the Company before selling such property. If the seller did not clear the dues as mentioned above, the Company may refuse to supply electricity to the premises through the already existing

connection or refuse to give a new connection to the premises till all dues to the Company are cleared.”

ANALYSIS OF CLAUSE 8.4 OF THE GTCS

19. Now it is necessary to analyse the ingredients of Clause 8.4 of the GTCS stated above. In order to attract Clause 8.4 of the GTCS, it is necessary for the respondents to, prima-facie, show that the ‘seller’ used in the GTCS and the vendor of the appellant is one and the same. Unless the vendor of the plot of the appellant is connected to the industry, the vendor of the appellant or the appellant are not liable to clear the arrears of the electricity bills of the industry.

PLOT PURCHASED BY THE APPELLANT

20. This authority will not go into the title dispute etc., of any property involved in this case. It only verifies the prima-facie case of the parties in that regard. The appellant claims that she purchased the plot under a registered sale deed dated 09.12.2019. The said sale deed shows that one Shyam Sunder Agarwal sold the said plot to the appellant, in his individual capacity. The source of title of the vendor of the appellant is mentioned in the sale deed stating that he purchased Ac. 0.20 guntas of land in Sy.No. 263 at Pargi road, Shadnagar, Farooq Nagar Municipality under a registered sale deed dated 07.01.1991. At this stage it is necessary to refer to the boundaries mentioned in the said sale deed dated 07.01.1991, which are as under:-

NORTH - Land bearing Sy .No. 264
SOUTH - P.W.D. Road from Shadnagar to Pargi
EAST - Land of Sri Radha Krishna Agarwal
WEST - Land belongs to Sheetal Shipping and Metal Processors,
Ltd., Sy.No. 263

The above said boundaries show that on the western side of the property purchased under the sale deed dated 07.11.1991, the industry i.e., Sheetal Shipping and Metal Processors Ltd., is situated. The sale deed dated 07.01.1991 shows that the vendor of the appellant purchased Ac.0.20 guntas of land in his individual capacity. There is no reference of the industry in the sale deed.

21. It is significant to note that on the Eastern side of the land purchased by the vendor of the appellant, the land of one Radha Krishna Agarwal is situated. From these factors, it is, prima-facie, established that on the western side of the property of Ac.0.20 guntas of the vendor of the appellant, out of which the present plot was purchased by the appellant after the plot of one Palabatla Shiva Kumar, the property of M/s. Sheetal Shipping and Metal Processors Ltd., is situated. Likewise on the eastern side of the Ac. 0.20 guntas of land purchased by the vendor of the appellant, the land of Radha Krishna Agarwal is situated. It is the argument of the authorised representative of the appellant that the Sheetal Shipping Company has purchased only Ac. 0.34 guntas of land (Ac.0.17 guntas + Ac 0.17 guntas) in Sy.No.263 and it is on the western side of the land purchased by Shyam Sunder Agarwal. According to her, the appellant purchased a plot from Shyam Sunder Agarwal.

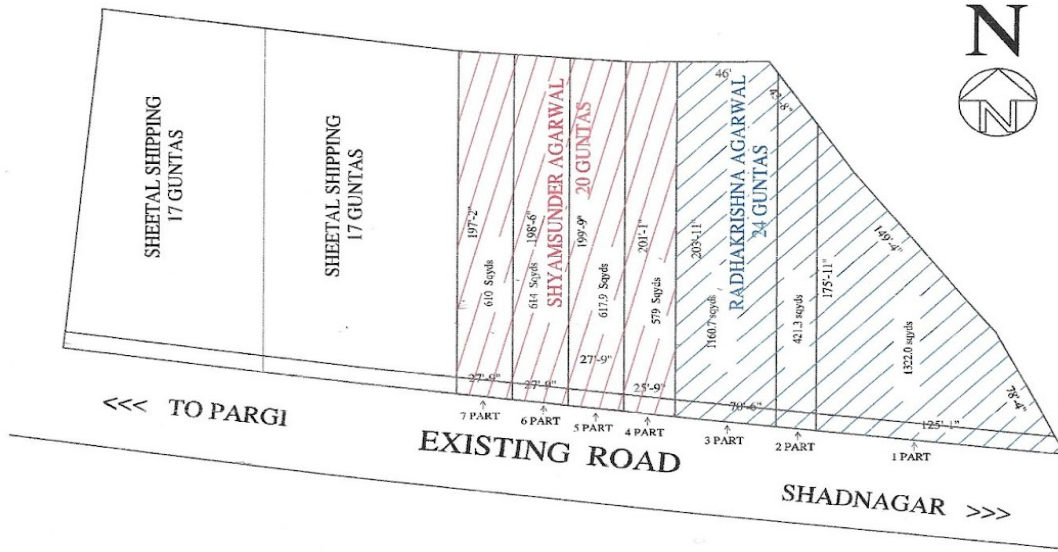
22. From the material available on record, the transactions of the land involved in this case are as under:-

Sl. No	Name of the Vendor	Name of the Vendee	Sy.No.	Extent of the land Ac.Guntas	Date of sale deed
1.	Urmila Devi	M/s. Sheetal Shipping and Metal Processors Ltd.,			29.03.85
2.	Jelti Bai	M/s. Sheetal Shipping and Metal Processors Ltd.,			29.03.85
3.	Godavari Bai	Govardhan Das Bangard	263	0.20	29.03.85
4.	Kavitha Bai	Govardhan Das Bangard	263	0.24	29.03.85
5.	Govardhan Das Bangard	Shyam Sunder Agarwal	263	0.20	07.01.91
6.	Shyam Sunder Agarwal	Appellant	263	614 Sq.yds	09.12.19

23. At this stage it is necessary to refer to the sketch map filed by the appellant which is as under:-

PLAN SHOWING

OPEN PLOT COVERED IN SY NO: 263, SITUATED AT PARGI ROAD, SHAD NAGAR MPLTY, FAROOQ NAGAR MDL, RANGA REDDY (DIST), TELANGANA STATE.



1 PART	POTTI ALLAIAH	
2 PART	AGEER NARSIMULU	RADHAKRISHNA AGARWAL
3 PART	PALABATLA MANISH	24 GUNTAS
4 PART	PALABATLA SRIDEVI	
5 PART	PALABATLA ANAND BABU	SHYAMSUNDER AGARWAL
6 PART	PALABATLA HEMALATHA	20 GUNTAS
7 PART	PALABATLA SHIVA KUMAR	

R. Jagadeeshwar Singh
R. JAGADEESHWAR SINGH
H-TECH CONSTRUCTIONS
 Municipal Approved Civil Engineer
 L.No. 01 / TPS / SDNR / MPLTY
 Licenced Surveyor No. 6
 Opp.SRO, SHADNAGAR, Cell : 9440656561

In the map, the plot of the appellant is shown as '6 PART'. That means immediately after the land of Sheetal Shipping Company and the plot of Shiv Kumar, the plot purchased by the appellant is situated on the eastern side of the industry. Thus I hold that the house plot purchased by the appellant is exclusive private property of Shyam Sunder Agarwal and not the property of the industry.

24. In view of the sale transactions shown in the above table and the particulars shown in the sketch map, the following prima-facie, conclusions emerge:-

i) M/s. Sheetal Shipping and Metal Processors purchased Ac.0.17 guntas and Ac.0.17 guntas on 29.03.85 from its vendor (total Ac.0.34 guntas) (this extent is shown as per the arguments of the learned authorised representative) subject to verification of documents.

ii) Govardhan Das Bangard purchased Ac.0.20 guntas of land and sold the same to the vendor of the appellant.

iii) The appellant purchased the plot involved in the case from Shyam Sunder Agarwal.

iv) Govardhan Das Bangard also purchased Ac.0.24 guntas of land and sold out the same to one Radha Krishna Agarwal.

v) The Sheetal Shipping and Metal Processors is on the west side of the Ac.0.20 guntas land purchased by Shyam Sunder Agarwal as shown in the map.

vi) The land of Radha Krishna Agarwal is on the east side of the land of Shyam Sunder Agarwal.

25. The appellant has paid the requisite charges and made an online application for getting a new Service Connection. This fact is not denied by the respondents. The plan annexed to the sale deed of the appellant shows that on

the western side of her plot after the plot of Shiva Kumar, the land which belonged to the industry is mentioned. Therefore, there is no reason for the respondents for not releasing the new electricity Service Connection as far as the appellant is concerned.

26. The authorised representative of the appellant has relied upon the judgement of the Hon'ble High Court of Allahabad in Rajesh Yadav v. State of U.P in Public Interest Litigation (PIL) No. 775 of 2019 dated. 01.07.2019, wherein it is held that the right to electricity and other civic amenities is a fundamental right guaranteed under Article 19(1)(e) read with Article 21 of the Constitution of India. This judgement also helps the appellant. Accordingly, I hold that the appellant is entitled for a new Service Connection as prayed for. These points are accordingly decided in favour of the appellant and against the respondents.

POINT No.4

27. In view of the findings of points 1 to 3, the Award of the Forum is liable to be set aside.

POINT No.5

28. In view of the findings on points 1 to 4, the appeal is liable to be allowed.

RESULT

29. In the result, the appeal is allowed, without costs. The respondents are directed to release new Service Connection to the appellant within one month from the date of receipt of the certified copy of this Award.

Typed to my dictation by Office Executive-cum-Computer Operator, corrected and pronounced by me on this the 6th day of August 2022.

Vidyut Ombudsman

1. Smt. Palabatla Hemalata, w/o. Sri P. Shiv Kumar, aged about (47) years, r/o. H.No.18-397, Sy No. 263, Pargi Road, Shadnagar, Farooq Nagar Municipality, Ranga Reddy District - 509 217. Cell: 9866633081/7036205211.
2. The Assistant Engineer / Operation /Shadnagar / TSSPDCL / Ranga Reddy District - 509 216.
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5. The Senior Accounts Officer / Operation / Rajendra Nagar Circle / TSSPDCL/ Ranga Reddy District.
6. The Superintending Engineer / Operation / Rajendra Nagar Circle / TSSPDCL / Ranga Reddy District.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum - II - Greater Hyderabad Area, TSSPDCL, GTS Colony, Vengal Rao Nagar, Hyderabad.