



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

Thursday, the Twenty Third Day of March 2017

Appeal No. 2 of 2017

Preferred against Order Dt. 19-12-2016 of CGRF In

CR.MP No: 4/2016-17 in CG No. 159/2016-17 of Hyderabad North Circle

Between

Sri. Z. Bhaskar, H.No. 8-3-231/A/212, Sri Krishna Nagar, Yousufguda,
Hyderabad. Cell: 8019732530/ 9542876999.

... Appellant

AND

1. The ADE/OP/Ameerpet/TSSPDCL/Hyderabad.
2. The AAO/ERO/Banjarahills/TSSPDCL/Hyderabad.
3. The DE/OP/Erragadda/TSSPDCL/Hyderabad.
4. The SE/OP/Hyd.North Circle/TSSPDCL/Hyderabad.
5. Sri. Z. Ram Mohan, S/o. Veeriah, 8-3-231/A/394-401,
Sri Krishna Nagar, Yousufguda, Hyderabad. Cell: 9849014712.
6. Smt. Z. Madhavi latha, W/o. Z. Rammohan, 8-3-231/A/394-401,
Sri Krishna Nagar, Yousufguda, Hyderabad. Cell: 8978099866.
7. Sri. Z. Laxmikanth, S/o. Veeraiah, 8-3-231/A/212,
Sri Krishna Nagar, Yousufguda, Hyderabad. Cell: 9542876999.

(Respondents 5 to 7 have been added at the Appellate stage in view of the nature of the dispute and their connection to the premises in question).

... Respondents

The above appeal filed on 10.01.2017 coming up for hearing before the Vidhyut Ombudsman, Telangana State on 07.02.2017 at Hyderabad in the presence of Sri. Z. Bhaskar - Appellant and Sri. G. Hari Krishna - ADE/OP/Ameerpet, Sri. K. Chandra Mohith - AAO/ERO/Banjara Hills, Sri. Z. Laxmikanth and Sri. Z. Rammohan for the Respondents and having considered the record and submissions of both the parties, the Vidhyut Ombudsman passed the following;

AWARD

The Appellant claimed that SC No. 1017089 and SC No. 1017091 were disconnected and sought issue of bill stop procedure to these services. The Appellant claimed that he has another SC No. 1017090 which is being used. Further the Appellant stated that in the meanwhile, the service meters of SC No. S1017089 and SC No.1017091 were stolen when he was away. Thereafter, he lodged a police complaint. After paying the meter cost, the DISCOM has not fixed the meters. Thereafter, he lodged a complaint with the CGRF. As per orders of the CGRF, the meters were installed in the premises and connections were given. The CC bills were not issued in spite of his request.

2. The DISCOM has not given any reply to the complaint during the hearings. However, the Appellant claimed that the DISCOM has restored power supply to his service connections S1017089 and S1017091 on 18.03.2016. He claimed that the CC bills were not issued. On behalf of the Respondents, ADE/OP/Ameerpet/Hyd/R1 stated that as per the Court Orders in OS No. 594 of 2015, new meters were installed to SC Nos. S1017089 and S1017091 but the power supply was not restored and similarly, no bills were issued on the ground that the case is pending in a civil Court. The ADE further stated that the complainant/consumers have been using the supply unauthorisedly for which necessary action would be taken against them. He claimed that he received an objection from Smt. Z. Madhavi latha/R6 requesting not to restore power supply to SC.Nos. S1017089 and S1017091 on the ground that there is a property dispute pending in a civil Court.

3. The ADE/OP/Ameerpet/R1 through letter dt.2.12.2016 stated that he received a representation from Smt. Z. Madhavi latha/R6 about pending Civil Case and about the order of the Court preventing “any kind of alienation, transfer, mortgage or change the nature of scheduled property pending disposal of the suit” and therefore, stated that the services were not restored with power supply.

4. On consideration of the rival claims and the material on record, the CGRF holding that earlier on behalf of the Licensee ADE/O/Ameerpet gave a statement to the effect that as per the Court Order in IA No.227/2015 in OS No. 594/2015, new meters were fixed to SC Nos. S1017089 and S1017091 and in view of pending Court case, no bills were issued to the consumers, who have been utilising the supply unauthorisedly, hence he would take action as per the rules and that the DISCOM has received an objection from Smt. Z. Madhavi Latha/R6 requesting not to restore power supply to these service connections since there is a property dispute pending in the Civil Court, the CGRF has

raised a point about whether both the service connections were live on 9.7.2015 when interim order was passed in IA No. 227/2015 and whether the consumer has been consuming power unauthorisedly and whether the Licensee is liable to issue regular CC bills to these two service connections, answered the point to the effect that the two service connections were disconnected in the month of August,2006 for non usage and non payment of bills and since there is a property dispute between the Appellant and Smt. Z. Madhavi Latha/R6 in a Civil Court and Smt. Z. Madhavi Latha claimed that she is the absolute owner of the premises, where these two service connections were located and claimed that the Appellant herein Sri.Lakshmikanth is her tenant who has been trying to grab her property with false and fabricated documents and that after disconnection of the two services in the month of August,2006 the CGRF never directed restoration of power supply and that by the time of the interim order dt.9.7.2015 and passed in IA No.227/2015 in OS No. 594/2015 on the file of the II Senior Civil Judge, the services were still under disconnection and that when there is STATUS QUO order, the two services were not made live officially, though the Appellant is alleged to be using the supply unauthorisedly, and therefore, CC bills to the services under disconnection since August,2006 were not issued and when the matter is pending in the Civil Court, CGRF seized to have any jurisdiction to entertain the grievance of the consumer and rejected the complaint through the impugned orders.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal on the ground that he (Appellant) is not a party to the IA No. 227/2015 in civil case pending in the Civil Court and therefore, the order of STATUS QUO is for the Appellant and Respondents 5 and 6 and that Respondents 1 and 2 ADE/OP/Ameerpet and AAO/ERO/Banjara Hills are not parties to the suit. Further Smt. Z. Madhavi Latha has no right to raise any objection and that these two service connections were obtained by the Appellant after submitting relevant documents and making requisite deposit and that he has paid the CC bills regularly, which shows that he is the owner of the property. He admitted that the SC.No.S1017089 and S1017091 are not being used on the ground that he had shifted elsewhere and that therefore, there was an order for stop bill in the year 2013. He received notice from the DISCOM to pay an amount of Rs 6,041/- against SCNo. 1017091 and Rs 1600/- against SC No. 1017089 and he has paid the amounts on 23.2.2015.

6. The Appellant further went on narrating how the Appellant and his two brothers by name Sri. Ram Mohan and Sri. Lakshmikanth had jointly purchased the property in question from one Sri. P. Rama Raksha vide a notarised private sale deed on

9.2.2002 and at the time of purchasing property, its erstwhile owner conveyed the existing electricity SC No. SZ040437 in which the brothers constructed G+3 floors by contributing equal amounts and that later the Appellant had applied for three service connections to the premises for three floors and obtained the service connections bearing Nos. S1017089, S1017090 and S1017091. He further claimed that Z. Ram Mohan/R5 had fraudulently executed a gift deed in favour of his wife Smt. Z. Madhavi Latha/R6 and secured mutation without proper documents and that without verification, the DISCOM authorities had ordered mutation and only on receipt of the next month bill, the other two shareholders of the property came to know about the fraud and immediately filed OS No.594/15 and also I.A.No.227 and 228 on the file of the II Additional Senior Civil Judge, City Civil Court, Hyderabad..

7. The Appellant further claimed that he has been living in one floor of the house in question and tried to persuade the Respondents to restore power supply, without success and that SC No. S1017090 stands in the name of the Appellant from 2002 onwards. He further claimed that the DISCOM cannot decide about ownership of the property and asserted that the DISCOM has to restore power supply to his service connections.

8. Originally, the Respondents 1 to 4 were made parties to the CGRF proceedings and in view of nature of the dispute and the claim, the Respondents 5 to 7 have been added as interested parties to the Appeal proceedings.

9. The 7th Respondent submitted a reply to the effect that all three brothers purchased the property in question from One Sri. M.P. Rama Raksha for Rs 4,65,000/- by contributing equally through a private notarised sale deed dt.9.2.2002 and that all the brothers have constructed G+3 floors one for each floor and that the Appellant has shifted elsewhere and was not using the services and therefore, billing was stopped while the SC No. S1017090 is still in use and that the 5th Respondent/Z.Ram Mohan had fraudulently executed a gift deed in favour of his wife Smt. Z. Madhavi latha/R6 for the entire property without any basis and that Smt. Z. Madhavi Latha/R6 had applied for mutation of SC No. SZ040437, which was in the name of the vendor Sri. M.P. Rama Raksha, without proper documents, but with his endorsement and on receipt of the next month bill, they came to know about the fraud and filed OS No. 594/2015 and IA No.227 & 228/2015 and thus he supported the Appellant's case.

10. The 1st Respondent /ADE/OP/Ameerpet through a letter received on 7.2.2017 admitted that when Smt. Madhavi Latha/R6 Reported that a civil suit is

pending in the court of the II Senior Civil Judge, City Civil Court Hyderabad between the 7th Respondent and her/R6, there is a status quo order and that when this fact came to his notice, he did not restore power supply to the 2nd service connection No.S1017091 and therefore, the 7th respondent lodged a complaint before CGRF (vide CG No.159/2016-17) for restoration of power supply, which invited an order directing the Respondents to approach the Civil Court for orders if any and that the 7th respondents instead of approaching the Civil Court, filed a complaint through the Appellant challenging CGRF orders and that due to the complaint lodged by Smt. Z. Madhavalatha/R6 and a pending case in Civil Court, the Licensee is not in a position to restore the power supply to SC Nos. S1017089 and S1017091.

11. The Respondents 5 and 6 submitted a joint reply dt. 7.2.2017 in this appeal with the following material allegations.

The Respondent No.5 purchased the house in question from Sri. M.P. Rama Raksha and three others on 16.7.2001 under a notarised sale agreement for valid consideration and thus, the Respondent No.5 became absolute owner of the property along with electricity and water connections as self acquired property. He executed a gift settlement deed in favour of 6th Respondent on 13.7.2012. The 6th Respondent being absolute owner of the property, had applied for transfer of connections in her name and the electricity connections were transferred in her name. The Respondent No. 5 on request, permitted the Respondent No. 7 to stay in the premises when he was going in renovation of his own house at Krishna Nagar. After 6 months, the Respondent No. 7 had colluded with the Appellant and prepared a false and fabricated documents. The Appellant and Respondent No. 7 are not the owners of the property in question and that they have, in collusion, filed OS No. 594/2015 on the file of the Court of II Senior Civil Judge, City Civil Court, Hyderabad for cancellation of the gift deed. They have also filed a criminal case in Banjara Hills Police Station. As per the orders of the CGRF in CG No. 159/2016-17 the meters which were allegedly stolen were freshly installed and connections were given, but the CC bills are not being issued. The said services are not in use since 2003. The 7th Respondent is not a consumer in this case. The services are in the name of the Appellant.

12. In view of the nature of allegations and rival contentions of the brothers and their family members, efforts at mediation failed and hence, the matter is being disposed of on merits.

Arguments heard.

13. On the basis of the material on record and rival contentions, the following issues arise for determination:

1. Whether the complaint is maintainable in view of pendency of the title dispute between the Appellant and Respondents 5 to 7 over the suit premises, in which 3 service connections are located?
2. Whether the impugned orders are liable to be set aside?

Issues 1 to 3

14. The Appellant as well as the Respondents 5 and 7 are real brothers. Respondent No.6 is the wife of R5. The Appellant claims that himself and his two brothers jointly purchased the house under a notarised sale deed dt.9.2.2002 after payment of valid consideration from the vendor Sri. M.P. Rama Raksha. He claimed that the premises at that time had SC No. SZ040437. He claimed that himself and his two brothers have constructed G+3 floors by contributing equal amounts. He claimed that there were three service connections for three floors and they are S1017089, S1017090 and S1017091. Later, the Appellant claimed that he got shifted elsewhere and the service connections suffered bill stop order except for SC No. S1017090. He claimed that in the meanwhile, his brother the Respondent No. 5 had fraudulently executed a Registered gift deed in favour of his wife, the Respondent No.6 without any basis and the Respondent No.6 then had applied for mutation of service connection No.SZ040437 which was in the name of the Vendor Sri. M.P. Rama Raksha, without proper documents. Only when he received the next month's bill, came to know about the Alleged fraud and immediately filed OS No. 594/2015 and also I.A Nos.227 and 228 seeking interim orders.

15. The Appellant claimed that there are several documents like deed of sale dt.21.8.2004 executed by One E. Bhaskar in favour of Z. Ram Mohan/R5 which is unregistered, but notarised for the same premises. There is an unregistered sale deed but notarised, executed by Sri. M.P.Rama Raksha in favour of the three brothers. There is a registered gift deed executed by Respondent No. 5/Sri. Z. Ram Mohan in favour of his wife Smt. Z. Madhavi Latha, the Respondent No.6 conveying the suit premises without mentioning wherefrom he acquired the property.

16. Except the gift deed, all other documents filed are unregistered but notarised. Apart from this, there are interim orders passed by a Civil Court directing

status quo as on today between the Respondent No.7/Z. Lakshmikanth who filed the suit against the Respondents 5 and 6 and the Appellant herein seeking cancellation of the gift deed, allegedly executed by the Respondent No. 5 in favour of his wife the Respondent No.6.

17. The facts reveal that there is a clear case of title dispute in this case. The Appellant and his two brothers and so also the wife of one his brother are parties to the civil suit and so also in this Appeal. The title has to be decided only by a Civil Court. There is no point of agreement between the rival parties.

18. On the question of jurisdiction, as per Clause 2.37 (a) of Regulation 3 of 2015, the Forum and consequently, the Vidyut Ombudsman have no jurisdiction to decide the dispute regarding even the service connections. The Clause says that “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 been passed by any such court, tribunal, arbitrator or authority as the case may be”

under the above circumstances, the forum may reject the grievance at any stage.

19. There is similar provision in Regulation 3 of 2015. Clause 3.19(c) of the regulation says that a representation may be entertained **if not pending** in any proceedings before any Court, tribunal or arbitrators or any authority; decree or award or a final order has not been passed by any such Court, tribunal, arbitrator or authority.

It is clear from the above Clause, the present Appeal cannot be entertained.

20. The present dispute is regarding the entitlement of the service connection/mutation of service connections, based on the title to the property in question, which is the subject matter of dispute in pending OS No. 594/2015 on the file of the II Senior Civil Judge, City Civil Court, Hyderabad. Further the two service connections are not live and one connection is stated to be live according to the Appellant. In view of the disputes, there is a bill stop status against the two service connections SC No. S1017089 and S1017091 which are not live and consequently, bills are not being issued.

21. **Just because the CC bills are issued to a person** whose name appears in the register of the licensee, it does not confirm the title in favour of such person. In view of the dispute regarding the title to the property in question, between the parties to

dispute in the Civil Court, no relief can be granted in the present Appeal. The affected parties have to agitate their title dispute in the Civil Court and then approach the licensee regarding service connections. The CGRF has rightly rejected the complaint on the ground that the title dispute is pending in a Civil Court. There are no grounds to interfere with the well considered impugned orders. The Appellant is not entitled to the relief sought pending civil dispute in a Court of Law. There are no grounds to interfere with the impugned orders. The issues are answered accordingly.

22. The Appeal is disposed of holding that:

1. the Appellant has to agitate his title/rights over the premises in question in the Civil Court and then approach the Licensee for restoration of power supply to the service connections.
2. it is made clear that issuing CC bills for the energy consumed does not obligate the Licensee to recognise or not to recognise the consumers as owners of the premises.
3. the impugned orders are confirmed.

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 this the 23rd day of March, 2017.

Sd/-

VIDYUT OMBUDSMAN

1. Sri. Z. Bhaskar, H.No. 8-3-231/A/212, Sri Krishna Nagar, Yousufguda, Hyderabad. Cell: 8019732530/ 9542876999.
2. The ADE/OP/Ameerpet/TSSPDCL/Hyderabad.
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8. Sri. Z. Laxmikanth, S/o. Veeraiah, 8-3-231/A/212,
Sri Krishna Nagar, Yousufguda, Hyderabad. Cell: 9542876999.

Copy to:

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