



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Beside Hyderabad Boat Club
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

TUESDAY THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

Appeal No. 37 of 2023-24

Between

Sri Dev Narayan Agarwal, s/o. Govind Ram Agarwal, Plot No.1035, Khanamet
Village, Serilingampally, Ranga Reddy District. - 9247800181,9030720747.

.....Appellant

AND

1. The Assistant Engineer/Operation/Allapur/TSSPDCL/Hyderabad.
2. The Assistant Divisional Engineer/Operation/Kondapur/TSSPDCL/Hyderabad.
3. The Assistant Accounts Officer/ERO/Kondapur/TSSPDCL/Hyderabad.
4. The Divisional Engineer/Operation/Kondapur/TSSPDCL/Hyderabad.
5. The Superintending Engineer/Operation/Cyber City Circle/TSSPDCL/
Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 04.12.2023 in the presence of Sri K. Hari Krishna - Advocate for the appellant virtually and Sri K. Srinivas - AAE/OP/Allapur for the respondents virtually and having stood over for consideration, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award in C.G.No.70/2023-24/Cybercity Circle dt.14.08.2023 passed by the Consumer Grievances Redressal Forum - II (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL'), rejecting

the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant before the learned Forum is that the appellant had purchased Flat No.307 in Sai Nilayam Apartments, Ayyappa Society on 16.12.2010. The electricity sub-meter existing earlier was disconnected by the respondents. There was a title dispute in respect of the plot of the appellant with the builder and the owner etc., The appellant approached the Hon'ble Court in that regard and got favourable orders. The appellant has applied for a new electricity Service Connection to his Flat. The said application was rejected by respondent No.1 on the ground 'no load provision'. The owner/builder has already collected the required amount from all the Flat owners for common services including the electricity. Accordingly it was prayed to direct the respondents to release the new Service Connection to the Flat of the appellant.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written reply submitted by respondent No. 1, before the learned Forum, it is inter-alia stated that the electricity supply through sub-meter is not the duty of the respondents. W.P.No.11971 of 2023 is pending before the Hon'ble High Court. But the appellant did not apply for a new Service Connection within the time fixed by the Hon'ble High Court. The application of the appellant was rejected because of 'no load provision'.

AWARD OF THE FORUM

4. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint.

5. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the Flat of the appellant is not a new construction. The respondents now cannot demand any money from him to install a new transformer under 'no load provision'. The Civil Suit in O.S.No.947/2012 was disposed of in favour of the appellant. Therefore it is prayed to set aside the Award passed by the learned Forum and to pass appropriate orders.

WRITTEN SUBMISSION OF RESPONDENTS

6. In the written reply filed by respondent No.1 before this Authority, it is, inter-alia, submitted that the request of the appellant for release of new Service Connection to his Flat was rejected under 'no load provision.' A Writ Petition No.11971 of 2023 is pending before the Hon'ble High Court for the State of Telangana.

7. Heard both sides.

POINTS

8. The points that arise for consideration are:-

- i) Whether there are sufficient grounds to direct the respondents to release the new Service Connection to the Flat of the appellant as

prayed for?

ii) Whether the Award of the learned Forum is liable to be set aside? and

iii) To what relief?

POINT Nos. (i) and (ii)

ADMITTED FACTS

9. It is an admitted fact that the appellant has purchased Flat No.307 of Khanamet Village in Sy No.11/8 to 11/18 of Khanamet village in Serilingampally Mandal, Rangareddy District. The appellant filed copies of several documents. The record shows that the suit in O.S.No.947/2012 was filed by the appellant for declaration, recovery of possession of immovable property i.e. flat No.307 against the builder and owner of the property and another person in possession. The suit was decreed by the learned VII Additional District Judge, Rangareddy District at L.B.Nagar on 01.08.2019. The record shows that the Hon'ble High Court passed conditional order in I.A.No.1 of 2019 in A S No.721 of 2019 on 21.06.2021 directing the appellant (Smt. P.Vijayalakshmi) therein to deposit Rs.15,000/- (Rupees fifteen thousand only) per month with default clause. But finally the possession of the subject Flat was delivered to the appellant on 27.1.2022 in EA No.13/2021 in EP No.2281 of 2020 on the file of VII Additional District Judge, Ranga Reddy District at L.B.Nagar. It is also an admitted fact that the Hon'ble High Court in W.P.No.46536 of 2016 filed by the builder directed the respondents on 30.12.2016 to release the individual Service Connections to the Flats of the

appellant and others on payment of required charges. Further it appears that one more W.P.No.11971 of 2023 filed by the builder Sri S. Samba Murthy is also pending before the Hon'ble High Court.

SETTLEMENT BY MUTUAL AGREEMENT

10. Both the parties have appeared before this Authority on different dates. 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

11. The present appeal was filed on 13.10.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

12. The learned Forum has rejected the complaint referring to the Clause 2.37 of Regulation 3 of 2015 of Hon'ble Telangana State Electricity Regulatory Commission on the ground that Appeal Suit 721 of 2019 is pending before the Hon'ble High Court of Telangana. The Clause 2.37 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

A reading of the above said Clause 2.37 makes it clear that the learned Forum may reject the complaint if any proceedings is pending before the Court or Tribunal etc. between the appellant and respondents in respect of the same subject. A.S.No.721 of 2019 is not between the parties herein. The subject matter is also different. Likewise the relief claimed. O.S.No.947 of 2012 shows that the appellant is the owner of the Flat in question and he is in possession of the same. Hence the appellant is entitled for a new Service Connection, subject to fulfilment of other conditions. Therefore the rejection of the complaint on the ground of pendency of A.S.No. 721 of 2019 is not correct.

13. The Award of the learned Forum also shows that the Hon'ble High Court in W.P.No.46536 of 2016 dt.30.12.2016 directed the respondents to release Service Connection to the Flat of the petitioner and others. The Hon'ble High Court passed such directions with two conditions. The first condition is payment of requisite charges. The second condition is that the payment should be made within (4) weeks from the date of receipt of the copy of the order. The argument of the learned counsel for the appellant is that electricity is a basic necessity of a human being and the respondents cannot deny it. The respondents are not denying electricity Service Connection to the appellant but

their plea that nobody approached them within the stipulated time fixed by the Hon'ble High Court.

14. The plea of the respondents is that they rejected the application of the appellant for release of new Service Connection for the reason 'no load provision'. It appears that the Flat of the appellant is in an apartment and in that apartment the load of electricity is to the maximum extent and as such they cannot release any more new Service Connections from the transformer existing near the apartment. There is sufficient force in the plea of the respondents. The net result is if the appellant is able to pay the necessary charges for a new transformer, there is scope for releasing the new Service Connection to the appellant. There is already a direction to the respondents to release the new Service Connection to the appellant with two conditions. It appears that the appellant or the builder has not complied with these conditions. In view of these factors, I hold that there are no sufficient grounds to release the new Service Connection to the appellant and the Award of the learned Forum is not liable to be set aside, though for different reasons. These points are accordingly decided against the appellant and in favour of the respondents.

POINT No. (iii)

15. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be rejected.

RESULT

16. In the result, the appeal is rejected.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive cum Computer Operator, corrected and pronounced by me on the 5th day of December 2023.

**Sd/-
Vidyut Ombudsman**

1. Sri Dev Narayan Agarwal, s/o. Govind Ram Agarwal, Plot No.1035, Khanamet Village, Serilingampally, Ranga Reddy District. - 9247800181,9030720747.
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6. The Superintending Engineer/Operation/Cyber City Circle/TSSPDCL/Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.