



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.84 of 2015

Thiru. S. Nandakumar,
12, Bhavani Nagar,
Perumalpattu – 602 024,
Tiruvallur District.

.....Appellant
(Party in person)

Vs

1) The Junior Engineer/O&M,
Kabisthalam,
Thanjavur Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
Papanasam Taluk, Thanjavur – 614 203.

2) The Assistant Executive Engineer/O&M,
Papanasam,
Thanjavur Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
Papanasam Taluk, Thanjavur District.

3) Executive Engineer/O&M,
Kumbakonam,
Thanjavur Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
Kumbakonam Taluk, Thanjavur District.

4) The Superintending Engineer,
Thanjavur Electricity Distribution Circle,
TANGEDCO (formerly TNEB),
No.1 Vallam Road,
Thanjavur - 613 007.

.....Respondents

(Rep by Thiru T.N. Sankaran/Executive Engineer/O&M/
Kumbakonam, & Thiru. G.Thirunavukarasu, JE / O & M, Kabisthalam)

Date of hearing : 22.1.2016

Date of Order : 7.3.2016

The petition dated 19.10.2015 filed by Thiru S. Nandakumar, Bhavani Nagar was registered as appeal petition No.84 of 2015. The above appeal petition came up for hearing before the Electricity Ombudsman on 22.1.2016. Upon perusing the appeal petition, Counter Affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant prayed to disconnect the S.C.No. 430-016-309.

2. Brief history of the case:

2.1. Service Connection No.430-016-309 was effected in the name of Thiru Srinivasan at Old No.74/2, New No.251/25, Pulla Boothangudi Village, Kabisthalam. The above service is charged at Tariff-V and the connected load is 1 KW.

2.2. Thiru S. Nandakumar of Bhavani Nagar has filed a petition before the CGRF to disconnect the service stating that his father is the title holder of the property and he is the power agent for the said property.

2.3. The CGRF of Thanjavur EDC has dismissed the petition.

2.4. Aggrieved over the above orders, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Orders of the CGRF:

The CGRF of Thanjavur EDC in its order dated 30.9.2015 has disposed of the above petition. The relevant para of the order of the CGRF is extracted below:-

“தாங்கள் அனுப்பிய புகாரின் அடிப்படையில் தங்களது புகார் மனுவை ஆய்வு செய்ததில் புகார் மனு மீது உரிய தீர்வு செய்வதற்கு மறுபரிசீலனைக்கு எடுத்துக்கொள்ளப்பட்டது. வழக்கின் மனுதாரர் எஸ். நந்தகுமாரை நீதிமன்றத்தை அணுகி தீர்வு பெற்று வந்து சமர்ப்பிக்கும் பட்சத்தில் நீதிமன்ற தீர்ப்பின்படி நடந்து கொள்ள தயாராகயிருப்பதாக கூறி அவரது மனுவை நிராகரித்து விடலாம் என்று திரு.பி.ஆர்.ராஜேந்திரன், அரசு வழக்கறிஞர், தஞ்சாவூர் அவர்கள் தெரிவித்த கருத்துரையின்படி புகார்தாரரின் புகார் மனு நிராகரிக்கப்படுகிறது என்று இம்மன்றம் தீர்வு செய்யப்படுகிறது.”

4. Contentions of the Appellant furnished in the petition:

4.1. Thiru S. Nandakumar, aged 61 S/o M,D, Srinivasan, aged 89 native of Pullaputhankudi Village, Theyagasamudaram Panchayat, Papanasam Taluk, Thanjavur District is the power holder of ancestral property :

4.2. His father is the title deed holder of Old RSNo.74/2 (New RS 251/25) house and land Natham Puchai of extent 0.06.5 ares at Agaraharam Sannathi Street vide family partition deed No.1160 dt.8.8.1955 as per Schedule B. EC for 55 years, Parental Document No.763 of 27.1.1942 EC for 15 years already submitted to CE, Tiruchirapalli / SE, Thanjavur / EE, Kumbakonam / AEE, Papanasam / JE, Kabisthalam.

4.3. But house tax receipt was obtained in the name of Late T.R.Srinivasan for EB service. It was stopped vide BDO's letter No.Na.Ka.486/2012/B1 dt.18.12.2012.

- 4.4. Since 2011, letters of representation sent to TANGEDCO CE/SE/EE/AEE/ JE for disconnection (DC). Relevant documents have been submitted regularly for immediate action. They are yet to address the grievance.
- 4.5. The members did not exercise their powers to address the grievance. There is no need to seek legal opinion.
- 4.6. He registered complaint against SC No.430-016-309 for the past five years. But no action.
- 4.7. No service records available with TNEB as per their reply under RTI. The attested property deed submitted to CGRF on 31.3.2015. Patta is in different name and service is in another name.

5. Contentions of the Respondent furnished in the Counter Affidavit:

- 5.1. Thiru S. Nandakumar, Perumalpattu filed a petition dated 31.3.2015 before the CGRF of Thanjavur EDC and the same was registered as Petition No.7 / 1.4.2015.
- 5.2. In the petitions, the petitioner sought for the disconnection of SC No.430-016-309 stating that the above premises is owned by him. He also furnished the documents in support of his petition.
- 5.3. As directed by the CGRF, a set of documents obtained from the existing service owner and the petitioner were sent for legal opinion.
- 5.4. The EE / Kumbakonam has furnished the documents submitted by the Petitioner and the service holder and the legal opinion given by Thiru P.R.

Rajendran, M.A.B.L., the Government Pleader, Thanjavur before the CGRF on 30.9.2015.

- 5.5. The Government Pleader opined that whether the portion of property in SF No.74/2 said to be owned by the petitioner and the portion of the property owned by Thiru S. Rangarajan in SF No.74/2 are one and the same or different could be decided only by the court. Hence, he opined that the petitioner Thiru Nandakumar may be asked to get order from the competent court and the licensee may act as per the directions of the Court.

6. Hearing held by the Electricity Ombudsman:

- 6.1. To enable the Appellant and the Respondent, to put forth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 22.1.2016.
- 6.2. Appellant Thiru Nandakumar himself attended the hearing and putforth his arguments.
- 6.3. Thiru T.N. Sankaran, Executive Engineer, Kumbakonam, the Respondent (3) herein and Thiru. G.Thirunavukarasu, JE / O & M, Kabistalam, the Respondent (1) herein have attended the hearing and put forth their arguments.

7. Arguments put forth by the Appellant on the hearing date:

- 7.1. The Appellant reiterated the counter of appeal petition.
- 7.2. The Appellant citing the documents registered as 763/942 and 1160/1955 and argued that the house wherein service connection No.309 was effected is owned by his father Thiru M.D. Srinivasan.
- 7.3. Utilising the similarity in name, Thiru T.R. Srinivasan has obtained the service fraudulently. They are aware of the above only during the year 2011 and filed petition for disconnection of the service. But, TANGEDCO has not taken any action to disconnect the service till date.
- 7.4. He argued that the building was rented out to post office during 1970 and as per the postal department letter to Thiru Srinivasan the department has requested him to provide tube light and fans for the house and office separately. Hence, he argued that the argument of the Respondent that the service was effected during 1989 is not correct.
- 7.5. He argued that the Respondents are justifying the effecting of service based on the house tax receipt in the name of Thiru T.R.Srinivasan. But, the local body has stopped issuing the receipt in the name of Thiru T.R.Srinivasan based on his representation. Citing the above he argued as the local body has stopped issuing of the house tax receipt in the name of Thiru. T.R. Srinivasan the service which was effected based on house tax receipt has to be disconnected only.

- 7.6. The Appellant argued that as per the E.C. issued by the Department of Registration, they are the owner of the disputed land and hence he is having every right to claim disconnection of the service.
- 7.7. He also informed that no case is pending in any of the court regarding the ownership of the disputed property. However, he informed that based on his representation the Revenue Authorities have conducted enquiries and the final decision is pending.
- 7.8. He also argued that if the executives excise their power, there is no need for him to go to the Court.

8. Arguments put forth by the Respondent on the hearing date:

- 8.1. The Executive Engineer, Kumbakonam reiterated the contents in the counter.
- 8.2. Citing the Test Report in respect of S.C.No.430-016-310, the EE argued that the SC No.430-016-310 was effected on 25.3.1989. Hence, being the previous connection given before effecting SC No.430-016-310, it was presumed that SC No.430-016-309 may be effected during 3/1989.
- 8.3. The EE argued that at the time of effecting of service to the said premises no objection was received. The Appellant has raised objection belatedly after a period of 22 years from the date of effecting of service.
- 8.4. The EE argued that while examining the records for effecting the service connection in respect of SC No.430-016-310, it is noted that, the property tax receipt is issued in the name of Thiru T.R. Srinivasan. Hence, treating him as the owner, the service was effected. As per the procedure in

vogue, the effecting of service is correct. As the disputed service is only one number prior to 309, and in the absence of the documents, it has to be construed that the same documents would have been submitted by the service owner, as both the services were effected on the same premises one under Tariff I C and another under Tariff V.

- 8.5. The EE argued that the property tax for the said premises was paid in the name of Thiru. T.R. Srinivasan upto 2010-11.
- 8.6. The EE also informed that there was a lease deed executed by Thiru T.R. Srinivasan and the Postal Department on 1.1.2001 and argued that the SF No. of the premises covered in the said deed is 74/2 and hence argued that the disputed service could be effected during 3/1989.
- 8.7. The EE also argued that as per the Code provisions, the service could be disconnected only if the CC charges are not paid within the due date. As the consumer is paying the CC charges, the disconnection is not feasible.
- 8.8. The EE also informed that they have got legal opinion from the Standing Counsel and as per the legal opinion, the ownership of the land in dispute could be decided only by a competent civil court and based on the direction of the Court, TANGEDCO may take further action. Citing the above, the EE argued that the Appellant may obtain the orders of Competent Court for disconnection of the service and produce the same to TANGEDCO for disconnecting the service.
- 8.9. The EE also informed that the patta for the disputed property is in the name of Thirumathi. Janakiammal.

8.10. In the written argument dt. 2.2.2016, the Respondent informed that as per the field enquiry the SC No.430-016-309 under Tariff-V was issued some 50 years back in the period of Kumbakonam company and documents that were submitted for obtaining the service are not available with them in respect of the said service.

8.11. On searching of documents available in the section office, it was noted that in Athanoor Distribution, the old service connection numbers were changed and new numbers were assigned during the year 2000 as detailed below for the services noted against each.

Sl. No.	Old No.	New No.	Remarks
1)	Athanoor – 134	304-016-309/V	effected some 50 years back as per field enquiry.
2)	Athanoor – 1375	403-016-310/1A	Under permanent disconnection
3)	Athanoor – 660	403-016-306/1A	effected in the name of G. Arumugam(Documents available).

9. Findings of the Electricity Ombudsman:

I have heard the argument of both sides. On a careful consideration of the arguments put forth by the rival parties, I find the following as the issues to be considered.

- (i) What are the provisions in the regulations for disconnection of a service?
- (ii) Whether the Appellant's prayer to disconnect the service is coming under any one of the provisions discussed in the first issue?
- (iii) Whether the Appellant's prayer to disconnect the S.C.No.430-016-309 effected in the name of Thiru.T.R. Srinivasan is acceptable?

10. Findings on the 1st issue:

10.1. To know the provisions in the regulation for disconnection of a service we have to refer Regulation 21, 23 (A) (1A) and 25 of Supply Code and Regulation 33 of the Distribution Code. All the above regulations are extracted below:

10.2. Regulation 21 of the Supply Code

21. Disconnection of supply :

Section 56 of the Act with regard to disconnection of supply in default of payment reads as follows :

“ (1).Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a Licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the Licensee or the generating company may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such Licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer :

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,--

a) an amount equal to the sum claimed from him, or

b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months whichever is less, pending disposal of any dispute between him and the Licensee.

(2).Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the Licensee shall not cut off the supply of the electricity”

The provision of the Act as in sub section (1) above is in addition to and not in derogation of any other law for the time being in force. Accordingly the Licensee shall be entitled to disconnect the supply of electricity subject to the provisions of Water (Prevention and Control of Pollution) Act 1974, Air (Prevention and control of pollution) Act 1981 and Environment (Protection) Act 1986 etc.,

10.3. On a careful reading of the said Regulation 21 of Supply Code, it is noted that when a person neglects to pay the charges for the electricity supplied or any other charges due from him to the licensee then the licensee may disconnect the service after giving not less than 15 days notice in writing without prejudice to his rights to recover such charges or other dues by suit. Further, the licensee can also disconnect the service subject to the provision of Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act 1981 and Environment (Protection) Act, 1980, etc.

10.4. Regulation 23 A (1A) of the Supply Code:

23. *****

(A) Tampering of meters and theft of electricity

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

Provided that only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the Commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection:

“relevant provisions of the Act are reproduced for ready reference”.

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.”

10.5. On a careful reading of the said Regulation 23 A (1A), it is noted that the supply could be disconnected on detection of theft of electricity in the said service connection.

10.6. Regulation 25 of the Supply Code:

25. Power for Licensee to enter premises and to remove fittings or other apparatus of Licensee

(1) Section 163 of the Act provides for the powers for Licensee to enter premises and reads as:

“ 1) A Licensee or any person duly authorized by a license may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of –

(a) Inspecting, testing, repairing or altering the electric supply-lines, meters, fittings, works and apparatus for the supply of electricity belonging to the Licensee; or

(b) Ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or

(c) Removing where a supply of electricity is no longer required, or where the Licensee is authorized to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the Licensee.

2) A Licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty-four hours notice in writing to the occupier, --

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of electricity belonging to the consumer.

3) Where a consumer refuses to allow a Licensee or any person authorized as aforesaid to enter his premises or land in pursuance of the

provisions of sub-section (1) or, sub-section (2), when such Licensee or person has so entered, refuses to allow him to perform any act which he is authorized by those sub- sections to perform, or fails to give reasonable facilities for such entry of performance, the Licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.”

10.7. On a careful reading of Regulation 25 (3) of the Supply Code, it is noted that where a consumer refuses to allow a licensee or any other authorized person to enter his premises or land in pursuance of the provision of sub section 1 & 2 or refuses to allow the licensee’s authorities to perform any act which he is authorised by those sections or fails to give reasonable facility for such entry or performance the licensee may disconnect the service after expiry of 24 hrs. from the service of a notice in writing.

10.8. Distribution Code Regulation 33

“33 AGREEMENTS:

(1) All intending consumers shall execute an agreement governing the supply of electricity in the form prescribed at the time of paying the Security Deposit and the service connection charges. The work of extension of supply will be taken up for execution only after the agreement is executed and the Security Deposit and the service connection charges, etc. are paid. For LT consumers other than agricultural and industrial consumers the application is treated as application-cum-agreement. In case of LT agriculture and industrial services , the agreement shall be in Form 7 in Annexure III and in case of HT consumers, the agreement shall be in Form 8 in Annexure III

(2) Every agreement is for a specific purpose and a specified location. The Engineer may at his/her discretion permit a consumer to change the point of supply from one place to another on such terms as may be prescribed by the Licensee including payment of charges incidental to such change.

(3) The agreement can be terminated by the consumer at any time by giving one month’s notice in writing to the Licensee expressing his/her intention to do so.

(4) The Licensee can terminate the agreement of a consumer at any time by giving one month’s notice if the consumer has violated the terms of the agreement or the terms and conditions of this Code or the provisions of any law relating to the agreement including the applicable Acts and Rules

under the Act and other orders from time to time. The Licensee shall inform the consumer regarding the grounds for such termination.

(5) In the case of termination of the agreement either by the consumer under sub – regulation (3) or by the licensee under sub – regulation (4), as the case may be, the licensee shall recover the dues if any due from the consumer after making such adjustment of the dues, due to him by the consumer as may be necessary to clear the dues from the consumer against the security deposit or additional security deposit or any other deposit made by the consumer and after making such adjustment, refund the balance deposit, if any, to the consumer within three months from the date of termination of the agreement.”

10.9. On a careful reading of the said Regulation 33 (3), it is noted that the consumer can terminate the agreement by giving one month notice in writing.

10.10. On a careful reading of the said Regulation 33 (4), it is noted that the licensee can terminate the agreement by giving one month notice in writing if the consumer has violated the term of the agreement or the terms of condition of the code or the provisions of the Act and the Rules & Regulations made there under time to time. However, the grounds of such termination has to be informed to the consumer.

10.11. As per the provisions discussed in the previous paras, it is noted that supply to a service could be disconnected if the consumer has violated the provisions of Regulation 21, 23 A (1A) and 25 (3) of the Supply Code. Further, the agreement could be terminated by giving one month notice in writing by the consumer as per Regulation 33 (3) of the Distribution Code and the licensee can terminate the agreement by giving one month notice in writing duly indicating the violation of Rules and Regulations as per regulation 33(4).

11. Findings on the Second issue:

The Respondent argued that the Current Consumption Charges of the service connection is being paid by the consumer. Hence, he argued that the service could not be disconnected. Further, on a careful examination of the arguments of the Appellant, it is noted that he is not pointing out any of the grounds discussed in the para 10, above as the reason for disconnection of the service. Hence, it is held that the prayer of the Appellant does not fulfill the requirement given in para 10.11 to disconnect the service connection No.430-016-309.

12. Findings on the Third issue:

- 12.1. The Appellant argued that his father is the title holder of old RS No.74/2 (New No. RS 251/25) house and land natham punchai to the extent of 0.06.5 ares at Agaraharam Sannathi Street vide family partition deed No.1160 / 1955 as per Schedule 'B'.
- 12.2. The Appellant argued that the service connection was effected in the name of Thiru.T.R. Srinivasan based on the Tax receipt obtained in the name of Late Thiru T.R. Srinivasan. The issue of house tax in the name of Thiru.T.R. Srinivasan was stopped vide BDO's Letter No. Na.ka.486/2012/B1 dated 18.12.2012. As the issue of house tax receipt was stopped, the Appellant argued that the service issued based on the tax receipt may also be disconnected.
- 12.3. The Appellant has also informed that the same premises was rented out to Post Office previously and now it is occupied by a tenant.
- 12.4. The Appellant argued that as per the EC issued by the Department of Registration, they are the owner of the property. Hence, the service given in the

name of T.R.Srinivasan shall be disconnected. He also argued that they have not given any consent to Electricity Board to effect service in the name of Thiru T.R. Srinivasan.

- 12.5. The Respondent argued that the service was given some 50 years back when the area was served by M/s. Kumbakonam Company and the documents received at the time of effecting of service is not available. The old SC No. is 134 and the present SC No. is 430-016-309(V).
- 12.6. The Respondent also argued that they have obtained legal opinion from the Government Pleader as directed by the Forum. In the legal opinion, the Government Pleader has stated that both Thiru S. Rangarajan and the Appellant are claiming ownership in SF No.74/2. Whether, the ownership claimed by both are for same portion or different could be decided by the competent Civil Court. Hence, he opined that Thiru Nandakumar may be directed to seek his remedy from the Court and the licensee may act as per the direction of the Court. Citing the above the Respondent argued that the disconnection may be decided on furnishing the order of the Court by the Appellant.
- 12.7. The Respondent also pointed out that the said service was utilized for the Post Office and the Postal Department has lease agreement with Thiru T.R.Srinivasan only.
- 12.8. The Respondent also argued that the patta is in the name of Tmt. Janakiammal and property tax receipt is in the name of Thiru T.R.Srinivasan upto 2010-2011.
- 12.9. As per the copy of lease document furnished by the Appellant, the Building was rented out to Postal Department from 27.2.1970 and the lease deed was signed

on 11.1.1971. On a careful reading of the lease deed, it is noted that electric lights plant and fittings have been installed in the premises. It shows that the above premises is with electricity service connection even during February 1970. But, the Survey number of the property in the said lease document is specified as 74/14.

12.10. There was another lease deed dt.1.1.2001 between Senior Superintendent of Post office and Thiru. T.R. Srinivasan. The SF number furnished in the said lease deed is R.S.No.74/2.

12.11. As the documents submitted while effecting the service connection are not available, we cannot verify whether the service connection effected is as per the rules in force then.

12.12. As the Respondent has cited the opinion of the Government Pleader the relevant paras of the legal opinion is extracted below :

“மேலெழுந்த வாரியாக பார்க்கும்போது மனுதாரர் கூறுவது போல் தனது தந்தையின் பெயரும் M.D. சீனிவாசன் என்பதாலும் ரெங்கராஜன் தகப்பனார் பெயரும் சீனிவாசன் என்பதாலும் ஆவணம் Forgery செய்யப்பட்டதாக கூறுவது போல் எந்த ஆவணமும் Forgery செய்யப்படவில்லை. உரிமை ஆவணங்கள் இன்னும் ஜானகி அம்மாள் பெயரிலும் அனுபவம் enjoyer என்ற முறையில் T.R. சீனிவாசன் பெயரில் இருப்பது தெரியவருகிறது. அத்துடன் மனுதாரர் 6 செண்ட் நிலத்திற்கு மட்டுமே உரிமை ஆவணம் தாக்கல் செய்து நிரூபித்து இருப்பதால் 0.06.5 ஏர்ஸிக்கு உரிமை கொண்டாட இயலாது.

ஒரே சொத்திற்கு இரண்டு நபர்கள் உரிமை கோரும் பட்சத்தில் அதை நீதிமன்றம் மட்டும் தான் விசாரித்து ஆவணங்களின் அடிப்படையிலும் சாட்சியங்களின் அடிப்படையிலும் உரிமையையும் அனுபவத்தையும் தீர்மானிக்க முடியுமே தவிர சட்டக்கருத்துரை மூலம் இரண்டு நபர்களில் யாருக்கு உரிமை என்பதை தமிழ்நாடு மின் உற்பத்தி மற்றும் பகிர்மான கழகம் சட்டப்படி தீர்மானிக்க இயலாது என்பதால் இதுமாதிரி நிகழ்வுகளில் உபய

தரப்பினரை நீதிமன்றம் மூலம் தீர்வு கண்டு நீதிமன்ற தீர்ப்பை சமர்ப்பிக்க கோருவதுதான் சரியான தீர்வாகும்.

மனுதாரர் புல எண்.74/2க்கு 6 செண்ட் நிலத்திற்கு மட்டும் உரிமையை நிரூபித்து இருப்பதாலும் ஆதியில் புல எண்.74/2 என்பது அரசு புறம்போக்காக இருந்து பிறகு நத்தம் நிலவரி திட்டத்தின் கீழ் உரிய நபர்களுக்கு சட்டப்படி பட்டா வழங்கப்பட்டு அந்த பட்டா புல எண்.251/25க்கு விஸ்தீரணம் 6.5 ஏர்ஸிக்கு திருமதி. ஜானகி அம்மாள் பெயரில் வழங்கப்பட்டு இதுவரை ரத்து செய்யவோ மேல்முறையீடு மூலம் மாற்றியமைக்கப்படாததாலும் நீண்ட அனுபவம் திரு. S. ரெங்கராஜன் குடும்பத்திற்கு தொடர்ந்து இருந்து வருவது ஆவணங்கள் மூலம் தெரிய வருவதாலும் மனுதாரர் கோரும் புல எண்.74/2 பகுதியில் உள்ள சொத்தும் திரு. S. ரெங்கராஜன் உரிமை கோரும் சொத்து புல எண்.74/2 பகுதியில் உள்ள சொத்தும் ஒரே சொத்தா அல்லது வெவ்வேறு சொத்தா என்பதை நீதிமன்றம்தான் ஆவணங்கள் மூலமும் சாட்சியங்கள் மூலமாகவும் முடிவு செய்ய இயலும் என்பதால் தாங்கள் மனுதாரர் S. நந்தகுமாரை நீதிமன்றத்தை அனுகி தீர்வு பெற்று வந்து சமர்ப்பிக்கும் பட்சத்தில் நீதிமன்ற தீர்ப்புடி நடந்து கொள்ள தயாராக இருப்பதாக கூறி அவரது மனுவை நிராகரித்து விடலாம் என நான் கருதி இந்த சட்ட கருத்துரையை தங்களுக்கு வழங்குகிறேன்.”

12.13. On a careful reading of the legal opinion furnished by the Government Pleader, it is noted that the Govt. Pleader has opined whether the property claimed by the Appellant in S.F. No.74/2 and the property claimed by Thiru. S. Rangarajan family (S/o Thiru. T.R. Srinivasan) in S.F. No. 74/2 are one and the same or different could be decided only by the Court. Therefore, the licensee may direct the Appellant to seek his remedy from the Court and the licensee may act as per the direction of the Court.

12.14. It is noted that the ownership of the property wherein SC No.430-016-309 now available is under dispute, the ownership issue could not be decided by the Electricity Ombudsman. A competent Civil Court can only decide about the issue of ownership.

12.15. Electricity is a fundamental right and a basic requirement for a premises. As the electricity charges are paid and there is no violation of the rules as discussed in the findings on the First issue, I am of the view that the service could not be disconnected.

12.16. Further, it is learnt that the premises is rented out and the service is utilized by the occupant of the building and the charges are being paid regularly. The disconnection of the service will deprive the basic requirement of electricity for the person who is utilizing the said premises as a tenant.

12.17. Further, the Appellant is seeking disconnection of a service belatedly which was effected some 50 years back stating that he is the owner of the premises.

12.18. Summing up, in view of the following as discussed in earlier paras, I am of the view that the disconnection of service connection No.430-016-309 prayed by the Appellant is not acceptable.

(i) The ownership of the premises wherein the service connection was effected is under dispute. The ownership issue could be decided only by the competent Civil Court and Electricity Ombudsman cannot decide on it. As the prayer of disconnection of the service is based on the Appellant's right over the ownership of the said premises, I am unable to accept the prayer.

(ii) It is noted that the premises is rented out and the tenant is utilizing the service and the Electricity charges are being paid regularly. The disconnection of the said service will deprive the basic requirement of Electricity to the tenant who is utilizing the said service.

(iii) The disconnection of service was not sought based on the violation of any of the regulations as discussed in my findings on the first issue.

(iv) Disconnection was sought for a service which was effected some 50 years ago.

13. Conclusion:

13.1. In view of my findings given in paras 12.19 above, I am unable to interfere with the orders of the CGRF of Thanjavur EDC.

13.2. With the above findings, the A.P.No.84 of 2015 is finally dispensed by the Electricity Ombudsman. No costs.

(A. Dharmaraj)
Electricity Ombudsman

To

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3) The Assistant Executive Engineer/O&M,
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4) Executive Engineer/O&M,
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5) The Superintending Engineer,
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6) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
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7) The Chairman & Managing Director,
TANGEDCO,
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8) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
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