



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.15 of 2017

Thiru G. Gopalakrishnan
S/o Late R. Govinda Pillai,
No.15/4, Karnam Street,
Selaiyur, Chennai – 600 073

..... Appellant
(Party in person)

Vs

The Assistant Engineer / O & M,
Selaiyur,
Chennai Electricity Distribution Circle/South-II
TANGEDCO,
No.6A, Kannan Nagar,
Avvai Street,
Selaiyur, Chennai – 600 073.

..... Respondent
(Rep by Thiru. P. Ravi, AE/Selaiyur)

Date of hearing : 20-4-2017 & 5.7.2017

Date of order : 7-8-2017

The petition dated 11.2.2017 filed by Thiru G. Gopalakrishnan, Selaiyur, Chennai – 73 was registered as Appeal Petition No. 15 of 2017. The above appeal petition came up for hearing before the Electricity Ombudsman on 20.4.2017 and 5.7.2017. 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 that the Ombudsman takes a favourable view of the case and issue necessary direction to the Appellant as applied for based on the valid documents already furnished without insisting on any NOC from Mr. Chellaperumal.

2. Brief History of the case :

2.1 The Appellant applied for a 3 phase service connection for his premises at No.151/2A, Camp Road, Selaiyur by submitting a copy of the settlement deed of the said property.

2.2 Thiru G. Chellaperumal, the brother of the Appellant has sent objection letter to effect service connection stating that a case is pending at District Munsuf Court, Tambaram in OS No. 162 of 2015 on the said property.

2.3 It is also noted that the Appellant has obtained stay order on further proceedings in OS No. 162 till the disposal of AS 381 of 2014 pending before the Hon'ble High Court of Madras.

2.4 The Assistant Engineer / Selaiyur informed that the service connection could be effected only on receipt of court order.

2.5 Aggrieved over the above, the Appellant filed a petition before the CGRF of Chennai Electricity Distribution Circle / South. The CGRF ordered that service connection shall be effected on production of NOC from Thiru G. Chellaperumal.

2.6 Aggrieved over the above order of the CGRF, the Appellant filed the Appeal before the Electricity Ombudsman.

3. Order of the Forum :

The CGRF of Chennai Electricity Distribution Circle has issued its order on 21.1.2017. The relevant paras of the order is extracted below:-

“Finding and order of the Forum

On perusing the proof for ownership, the petitioner Thiru G. Gopalakrishna has produced a settlement deed of his father in which two sons namely Thiru.Chellaperumal & Thiru G. Gopalakrishnan are entitled for the above said property.

The petitioner is advised to enclose the NOC from Thiru Chellaperumal along with the application for service connection in his name TANGEDCO is directed to effect service if the application is furnished in full shape as mentioned above.”

4. Arguments of the Appellant furnished in the Appeal Petition:

4.1 This is an appeal against the Order dated 21.1.2017 passed by the Consumer Grievance Redressal Forum, TANGEDCO, Chennai in Petition No. 160/2016 against the rejection of the Assistant Engineer, O & M TANGEDCO Selaiyur in providing a 3 phase service connection for his premises No. 151/2A, Camp Road, Selaiyur, Chennai – 600 073.

4.2 In his letter dated 17-6-2016, the Assistant Engineer Selaiyur has stated that since there is a dispute between the present Appellant and his brother Mr. G. Chellaperumal and that there is a case pending in the Court of the District Munsif, Tambaram as well as in the Hon'ble High Court, the electricity connection will be given after receipt of the Court Orders.

4.3 The Grievance Redressal Forum also, without perusing the records produced by the appellant, and based on the objection raised by the brother of the appellant Mr. Chellaperumal, passed an order by advising the Appellant to enclose an NOC from Shri Chellaperumal along with his application for the service connection in his name, and directed the TANGEDCO to effect service if the application is submitted in full shape.

4.4 The Appellant is in possession of the property in question and he is in full enjoyment by virtue of the settlement deed executed between the appellant and his brother Mr. Chellaperumal.

4.5 That his brother Mr. Chellaperumal is also enjoying this joint property under this same settlement property and he has been provided **12 service connections** in same joint property by the Assistant Engineer, Selaiyur and that the Assistant Engineer, Selaiyur did not insist any NOC from the appellant and the Appellant also did not raise any objection at that time of providing all the above service connections to Mr. Chellaperumal who is none other than the own brother of the Appellant.

4.6 The Appellant is also entitled to a separate service connection – ONLY ONE IN NUMBER – in the same premises as requested by the Appellant. Hence the rejection by the Assistant Engineer, Selaiyur is not at all justified.

4.7 That the appellant has also submitted a copy of the settlement deed executed by Mr. Govinda Pillai, in favour of his two sons i.e., Mr. Chellaperumal and the appellant Mr. Gopalakrishnan. Hence it is a valid document to show and prove the ownership of the property by the Appellant.

4.8 The Appellant is in absolute possession and enjoyment of the property from the date of settlement and no further proof is required for the purpose of lawful ownership. The appellant has also constructed a small portion in that area and the said premises has also been inspected by the TANGEDCO Selaiyur. Hence there is absolutely no necessity for the Appellant to obtain and produce any NOC from the brother of the appellant Mr. Chellaperumal.

4.9 The appellant also submits that in another similar case for providing a service connection for the residence of the Appellant in Selaiyur, it was first rejected by the Assistant Engineer, Selaiyur and on petition to the Consumer Grievances Redressal Forum against the decision of the Assistant Engineer, Selaiyur, the CGRF TANGEDCO, on perusing all the relevant records and after careful consideration of the case, passed orders on 3-9-2016 in petition No. 119/2016, directing the Executive Engineer, O & M Tambaram, to act as per the existing guidelines on LAWFUL OCCUPANCY and also to report the matter to their office. Based on the direction given by the Forum, the Assistant Engineer, Selaiyur promptly provided the service connection to the appellant.

4.10 The appellant submits that the reasons for rejection by the Assistant Engineer, Selaiyur that a vexatious suit was initiated by Mr. Chellaperumal under OS No.162/2015 in the District Munsif Court, Tambaram and the entire proceedings have been stayed in favour of the appellant in IA No. 634/2015 for which a revision petition under CRP No. 148/2016 has been filed by Mr. Chellaperumal in the High Court of Madras. Even though the order is in favour of the Appellant, both the Assistant Engineer, Selaiyur and CGRF TANGEDCO, without applying their mind to go into the details of the case in

their true perspective and merits of the case, acted in an extra constitutional manner and rejected the application as a matter of routine. It is, therefore, submitted that TANGEDCO is in no way concerned with the case of these vexatious suit for taking it as ground for rejection and thereby harassing the applicant who is also a lawful and legitimate joint owner of the property and is in lawful possession and occupation.

4.11 The Appellant further submits that the provision in the TANGEDCO terms and conditions of supply of electricity and other guidelines also clearly permits under Rule 6, Sub clause 3, provision of service even to a tenant who is in lawful occupation of the premises, on executing an indemnity bond in case where an applicant who is not the owner of the premises is not able to get the consent letter or if the owner refuses to give the consent letter and the intending consumer produces a proof of his lawful occupancy, whereas in this case, the Appellant himself is the joint owner of the property, is in absolute possession of the property ever since the settlement, and is also in the lawful occupation. An extract of Rule 6.03 is furnished for ready reference.

5. Arguments of the Respondent furnished in the Counter:

The Superintending Engineer / CEDC / South II has furnished the counter on behalf of the Respondent. The arguments furnished in the counter are furnished below:-

1. In order to fortify his right, interest or title in the building, the petitioner has produced a settlement deed copy executed by his father Govinda Pillai. By the said settlement, the property covered therein was settled in favour of the petitioner and his brother Thiru G. Chellaperumal.

2. Further, the application submitted by the petitioner was incomplete and therefore he was called upon to furnish the application in proper format within a period of seven days meanwhile Mr. G. Chellaperumal has sent a letter to the office of the respondent objecting to give service connection by indicating that there is a suit filed before the Honourable District Munsif Court, Tambaram in OS No. 162 of 2015 by the said Chellaperumal against his brother Gopalakrishanan (Petitioner herein) and in the said case, the petitioner has taken out an application in IA No. 634 of 2015 to stay all further proceedings in the suit in OS No. 162 of 2015 till the disposal of AS No. 484 and 485 of 2013 pending on the file of the Hon'ble High Court, Madras. By an order dated 30.09.2015, the Honourable District Munsif Court, Tambaram has granted stay. As against the order dated 30.09.2015, it appears that Mr. Chellaperumal has filed a Civil Revision Petition No. 148 of 2016 and it is also pending.
3. The petitioner herein has filed a Petition in Petition No. 119 of 2016 before the Consumer Grievance Redressal Forum, Chennai Electricity Distribution Circle / South / TNEB, K.K. Nagar, Chennai – 600 078 complaining inaction on the part of this respondent in not providing the service connection. By an order dated 03.09.2016, the Executive Engineer, Tambaram was instructed to act as per the existing guidelines on lawful occupancy and report shall be furnished to the Forum within 15 days.
4. Thereafter, the petitioner has once again filed a petition in petition No. 160 of 2016 before the Consumer Grievance Redressal Forum, Chennai Electricity Distribution Circle / South-II / TNEB, K.K. Nagar, Chennai – 600 078 complaining inaction on the part of this respondent in not providing the

service connection.

5. By the order dated 21.01.2017, the Forum has advised the petitioner herein to submit a No Objection Certificate from his brother Chellaperumal along with the application for effecting service connection in his name and if the application is in order, the respondent was directed to effect service connection. As against the order dated 21.01.2017, the petitioner has filed the instant appeal before this Honourable Forum.
6. Now the single phase meter installed in the residence of Mr. Gopalakrishnan has been changed into one three phase service connection and charges have been collected.
7. The petitioner has also applied for name transfer of the existing service connection in the name of his father namely Service Connection No. 256-701-93. After getting indemnity bond from the petitioner, the transfer has been effected and now the service connection stands in the name of the petitioner.

6. Hearing held by the Electricity Ombudsman:

- 6.1 To enable the Appellant and the Respondents to put forth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 20.4.2017 and 5.7.2017.
- 6.2 The Appellant Thiru G. Gopalakrishnan attended the hearing and put forth his side arguments on both the days.
- 6.3 Thiru P. Ravi, the Respondent herein has attended the hearing and put forth his side arguments on both the days.

6.4 In order to hear the arguments of the objector, Thiru. Chellaperumal was also summoned to attend the hearing conducted on 5.7.2017 and Thiru Srinivasalu, Advocate has attended the hearing on behalf of Thiru Chellaperumal and put forth his side arguments on 5.7.2017.

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

7.1 The Appellant reiterated the contents of his appeal petition.

7.2 The Appellant argued that as per the settlement deed he is having 50% share in the property wherein he has requested supply. When 12 Nos service have been effected to his brother Thiru Chellaperumal without NOC denial of a single service for his use in the same joint property is not justified.

7.3 The Appellant argued that he has constructed a shed for his office in the said area and the same is under his possession. Therefore, he argued that he entitled for a service for the shed constructed. He has also furnished a photo of the said shed along with his name Board in support of his above argument.

7.4 He also informed he has filed a police complaint against Chellaperumal for removing the Board displayed in the hut on 22.9.2006 and furnished a Xerox copy of the same in support of his arguments of his possession of the said site.

7.5 The Appellant also informed that in the Chinnakuzhandaiammal complex he is having ½ share and the same has been accepted by Thiru. Chellaperumal recorded in the counter filed by the Chellaperumal in IA No. 1135 of 2013 in OS No. 114 of 2013 on the file of the District Munsif Court, Tambaram.

7.6 The Appellant argued that the property tax receipt was originally in the joint name of Thiru Gopalakrishnana and Chellaperumal and furnished a Xerox copy of tax receipt for the year 95-96 in support of the above claim on 28.4.2017.

8. Argument put forth by the Respondent on the hearing:

8.1 Thiru Ravi, Assistant Engineer, Selaiyur has reiterated the contents of the counter.

8.2 He argued that as there is a dispute over the property and Thiru Chellaperumal is objecting to effect service connection in the name of Gopalakrishnan, they have not effected the service connection.

8.3 The Assistant Engineer / Selaiyur also argued that the CGRF of Chennai Electricity Distribution Circle / South I has advised the Appellant to furnish NOC from Thiru Chellaperumal along with his application seeking service connections and directed the TANGEDCO to effect service if it is in full shape. But the Appellant instead of furnishing NOC has filed the appeal petition.

9. Argument of Thiru Chellaperumal, the person who is objecting effecting of service connection to Thiru Gopalakrishnan:

9.1 As Thiru Chellaperumal has given objection for effecting a service connection in the name of Thiru Gopalakrishnan, the Appellant herein in the disputed property, he was also instructed to attend the hearing on 5.7.2017 to put forth his arguments.

9.2 Accordingly, Thiru Chellaperumal was represented by Thiru Srinivasulu, Advocate. The learned advocate argued that as per the judgement delivered in OS No. 372/2004, the Chinna Kuzhandaiammal Complex is allotted to Thiru Chellaperumal. Therefore, Thiru Gopalakrishnan is not the owner of the property

and hence not eligible to obtain a service in his name. The learned Advocate also argued that as a judgment was issued on partition of property, the argument of the Appellant that he is having 50% share in Chinna Kuzhandaiammal complex is not sustainable.

9.3 The learned advocate, argued that the said complex was in possession of Thiru Chellaperumal as per the oral partition and he is only paying the property tax and the tax receipt is in his name only.

9.4 Regarding the statement of Thiru Chellaperumal in counter in O.S. No114 of 2013 on the file of District Munsif Court, Tambaram, the learned advocate argued that the final verdict of the court only binding the parties. Moreover, as per the above statement, the Chellaperumal is having $\frac{1}{2}$ share in Jeyaram complex also. But, it was with Gopalakrishnan. Therefore, he argued that the final orders of the court only binding the individuals.

9.5 The objectioner, Thiru Chellaperumal has also furnished the written objection on 10.7.2017. The arguments furnished in the said objections are furnished below:-

1. There is no joint possession as claimed by the Appellant and the appellant is put to strict proof of his possession and enjoyment of Chinna Kulanthaiammal Complex bearing Survey No.151/2A, situated at Door No.P7, Camp Road, Selaiyur Village, Chennai – 600 073. Since Mr. Chellaperumal is in possession and enjoyment of Chinna Kulanthaiammal Complex and apparent area, the Assistant Engineer, Selaiyur granted service connection, hence the question of NOC from the Appellant does not arise at all.

2. The Hon'ble Additional District Judge, Chengalpet was pleased to pass decree and judgment in O.S. No. 372 of 2004, wherein the Hon'ble Court accepted the Oral Partition between G. Gopalakrishnan and G. Chellaperumal, therefore the settlement deed didn't hold valid protection in the eye of law and appellant is misleading this forum by producing such document.
3. It is admitted fact that service connections are given to the residences of Mr. G. Gopalakrishnan and G. Chellaperumal based on relevant records such as Ration Card, Voter ID and etc were produced to the Assistant Engineer, Selaiyur. But in the present case in appeal, the appellant has not established his possession and enjoyment. As per the Hon'ble Court Decree Judgement in the said O.S. No. 372 of 2004. Mr. G. Chellaperumal alone is the absolute owner of the property. Hence the question of joint possession does not arise at all, as claimed by the appellant herein.
4. It is respectfully further submitted that the Appellant continuously disturbed the peaceful possession and enjoyment of the property belonging to G. Chellaperumal and consequently a suit for injunction in O.S. No.162 of 2015 was filed before the Hon'ble District Munsif Court at Tambaram by G. Chellaperumal against G. Gopalakrishnana and the same is pending as on this date. But the Appellant G. Gopalakrishnan has preferred an Application to stay all further proceedings in O.S. No. 162 of 2015 and the same was accepted because of pending of the Appeal Suit in A.S. No. 381 of 2014 before the Hon'ble High Court and against the said order Mr. G. Chellaperumal has preferred C.R.P. No. 148 of 2016 and the same is pending before the Hon'ble High Court.

5. The Appellant is neither the owner of the property nor a Tenant as held by the Hon'ble Court in O.S. No. 372 of 2004, as stated in the TANGECO's procedure laid down for obtaining Domestic / Commercial Service Connection.
6. The appellant has no locus standi to get service connection in his favour in respect of Mr. G. Chellaperumal's property. Further several suits and appeals are pending before the Lower Court and Hon'ble High Court of madras and unless and until the Final Decree is passed, giving service connection may not be entertained.
7. Mr. G. Chellaperumal has filed a suit in O.S. No. 151 of 2009 before the Hon'ble District Munsif Court at Tambaram against
 - (1) The Chairman, TNEB, Chennai – 600 002
 - (2) The Assistant Executive Engineer, TNEB, Chennai – 600 073
 - (3) G. Gopalakrishnana (the present appellant)

for service connection and the same was dismissed by the Hon'ble Court.

The relevant portion of judgement is extracted hereunder:-

“12 “From the above it is clear that both the plaintiff and the 3rd defendant are living in the suit property and electrical machineries installed in their portions and EB service connection is in the name of Govinda Pillai and a partition suit in O.S. No. 288 of 2005 is pending before the Hon'ble Additional District Court and so the defendants 1 & 2 cannot collect the electricity charges when a partition suit is pending. After passing a decree in the partition suit in O.S. No. 288 of 2005 the plaintiff is entitled to get a separate service connection. Hence the issue Nos. 1 to 6 are not answered in favour of the plaintiff.”

In the result the suit is dismissed. Both the parties do bear their own costs". O.S. No. 151 of 2009 is enclosed herewith for your ready reference."

8. Because of pending of partition suits in O.S. No. 372 of 2004 and O.S. No. 288 of 2005, the Hon'ble District Munsif Court declined to give separate service connection to Mr. G. Chellaperumal and the appellant is well aware of the aforesaid judgement, and when such being the case, how the appellant can claim separate service connection when a judgement was already pronounced not to give separate service connection.
9. Even, as per the judgement and Decree dated 31.07.2012 passed in O.S. No. 372 of 2004 by the Hon'ble Additional District Judge at Kancheepuram, Chengalpattu, the aforesaid oral partition made by Late Govindapillai between G. Gopalakrishnan and G. Chellaperumal in respect of schedule "C" property are confirmed. Therefore, G. Gopalakrishnan did not have any legal right over the property situated at Door No. P7, Camp Road, Selaiyur Village, Chennai – 600 073, which was exclusively allotted to G. Chellaperumal.
10. It is respectfully further submitted that the present Appellant has filed Appeal suit in A.S. No. 381 of 2014 before the Hon'ble High Court of Madras challenging the Decree and Judgement passed by the Trial Court. In addition to that G. Chellaperumal has also preferred Appeal in A.S. Nos 484 and 485 of 2013 before the Hon'ble High Court of Madras, challenging the Decree and judgment of the Trial Court. As on date the Appeals preferred by Thiru G. Chellaperumal and G. Gopalakrishnan are pending before the Hon'ble High Court. At this juncture, the present Appellant suppressed all the facts before your authorities and seeking for 3 phase connection to the property belonged to G. Chellaperumal, which cannot be permitted as per law.

11. Prima facie, the appeal is not maintainable on this ground;

i) This Hon'ble Court office has to take into notice judicially the order that has been passed by Hon'ble District Court with a finding that the property is in possession of this respondent.

ii) Any finding given by this Hon'ble office will have repercussions against the judicial orders given by the Hon'ble court.

iii) Already both the parties preferred appeals before the Hon'ble High Court and appeals are pending and when that is the situation it may not be proper to have parallel proceedings on the same issue which will cause hardship to both the parties.

iv) Having chosen already a forum which is pending before the Hon'ble High Court, it may not be proper on the part of the appellant to proceed parallel proceedings before this Hon'ble Court also.

12. Thus when there are various proceedings pending between both the parties and all the suits pending before the appropriate forums either by way of original suit or by way of appeals and at this stage the appellant diverting the regular process and proceedings in a different route is against the judicial Principles of law and in such circumstances the appeal cannot be entertained.

10. Findings of the Electricity Ombudsman:

On a careful consideration of the arguments put forth by the Appellant, Respondent and the objector, the following are considered as issue to be decided.

(i) What is the provision in the Regulation for effecting a service connection to an intending consumer?

(ii) Whether the prayer of the Appellant to effect service connection in his name is acceptable?

11. Findings on the First Issue:

11.1 In order to know the provision for effecting supply to a LT consumer we have to refer Distribution Code regulation 27 (1), 27(3) and 27 (4) The relevant regulations are extracted below :

"27 Requisitions for Supply of Energy:

(1) *The provision regarding the duty of Licensee as detailed in section 43 ¹[of the Act] to supply electricity on request is reproduced below:*

(1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such remises, within one month after receipt of the application requiring such supply :

Provided that where such supply requires extension of distribution mains, or Commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or Commissioning or within such period as may be specified by the Appropriate Commission.

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Provided that the licensee will refuse to supply electricity to an intending consumer who had defaulted payment of dues to the licensee in respect of any other service connection in his name.

Explanation:- For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances."

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

(3) The application for HT service connection shall be in FORM-4. Application for LT service connection (other than Agriculture and Hut), LT Agriculture service connection and LT Hut service connection shall be in FORM - 1, 2 and 3 respectively.

Note : Requisitions for supply of energy (Applications), even if incomplete, and irrespective of whether they are handed over in person or by post, should be acknowledged in writing. If they are in order, they shall be registered immediately and acknowledged. If they are incomplete, the defects should be indicated and returned without registration.

(4). An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce valid proof of his/her being in occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.

Explanation:- For the purpose of this sub-regulation, the expression "valid proof" means any proof of occupancy such as registered power of attorney or latest rent receipt issued prior to the date of application or lease deed or possession order from appropriate authority or decree or judgment of Courts."

11.2 On a careful reading of Regulation 27(1), it is noted that the distribution licensee shall effect supply on an application by the owner or occupier within one month after receipt of application. However, if such supply requires extension of Distribution mains or commissioning of new substation the supply shall be extended on completion of such extension of commissioning within the time frame as stipulated by the Commission.

As per regulation 27(3), the application for LT service connection (other than Agri and hut) shall be in Form 1, the which is extracted below:

*"FORM-1
Application Form for L.T. Service connection (except Agriculture and Hut)
FORM OF REQUISITION FOR SUPPLY OF LOW TENSION ENERGY (SINGLE PHASE / THREE
PHASE)
[Refer regulation 27(3)]*

To

*The Designated Engineer
(Address of the Licensee)
Sir,*

*1. I hereby request you to supply electrical energy to the premises hereinafter described.
(Note : This undertaking does not preclude a separate written contract being entered into, if so desired by the Licensee or the consumer.)*

2. I agree to pay for said energy, service connection charges, the deposit of such security, meter rent, as may be demanded in accordance with the scale of rates prescribed under Tamil Nadu Electricity Distribution Code, Supply Code, notifications and orders issued in this regard by Tamil Nadu Electricity Regulatory Commission.

3. I wish to be charged under Tariff under schedule of the TNERC tariff order dated..... .

4. I agree to take supply for years and utilize the energy in the premises described hereunder or outside the premises for my bonafide use.

5. In case I sell or otherwise dispose of the property / vacate the premises while the supply is continued, I agree to give one Calendar month notice in writing and pay all the arrears to the Licensee. Failing such notice, I hold myself responsible for energy consumed in the premises till such notice is given to the Licensee.

*6. Description of the premises Door No. and / or name of the house or premises Street Town / Village and Taluk
Owned by (Name in Block Letters)*

Tenanted by (Name in Block Letters)
Applicant's address for correspondence :

7. The following are my requirements

(A) Lighting	Number of Points	Wattage of points	Total wattage
(i) Lights	-	-	-
(ii) Fans	-	-	-
(iii) Convenient wall plugs	-	-	-
(B) Domestic electrical apparatus:			
(i) Cookers	-	-	-
(ii) Water heaters	-	-	-
(iii) Refrigerator	-	-	-
(iv) Air Conditioners	-	-	-
(v) Other purpose	-	-	-
(vi) Convenient wall plugs	-	-	-
(C) Power Loads			
(i) Domestic			
(ii) Industrial			
(iii) Welding			
(iv) Other purposes			
(v) Convenient Wall Plugs Demand applied for in KW			

The wiring has been completed on :

Signature of the Applicant

Place :

Date :

Note : The application shall be accompanied with the following documents:

- (i) Certified copy of proof of ownership such as sale deed/ partition deed/gift settlement /allotment letter/computer patta / ownership certificate issued by revenue department officials /court judgment or recent property tax receipt.
- (ii) In the case of joint property, certified copies of proof of ownership such as legal heir certificate along with parent documents specified in note(i) above and consent letters from co-owners. If consent letter is not produced, an indemnity bond with enhanced security deposit.
- (iii) If the applicant is not the owner, consent letter from owner in FORM No.5 or valid proof of occupancy, and indemnity bond in FORM No.6.

FOR LICENSEE'S USE ONLY
Application registered as No.

dated

Note.1. In case of transfer of the service, fresh application should be signed by the transferee (or a letter signed by both the transferor and transferee, agreeing to the above conditions for transfer should be obtained).

2. Additions or omissions to the connected load to be notified to the Licensee before effecting the electricity connections.

PRECAUTION TO BE ADOPTED BY CONSUMERS, OWNERS, ELECTRICAL CONTRACTORS, ELECTRICAL WORKMEN, AND OTHER SUPPLIERS OF ENERGY

No electrical installation work, including additions, alterations, repairs and adjustments to existing installations except such replacement of lamps, fans, fuses, switches and other component parts of the installations as in no way alter its capacity or character shall be carried out upon the premises or on behalf of any consumer or owner for the purpose of the supply of energy to such consumer or owner, except by an authorized person specified by the Authority.]

11.4 In the note to Form 1, the documents that are enclosed along with the application has been detailed.

11.5 As per regulation 27(4), the intending consumer who is not the owner of the premises shall produce consent letter in Form 5 from the owner for availing supply. However, if the owner is not available or refuses to give consent letter, the intending consumer can produce valid proof as his occupancy in the said premises and also execute an indemnity bond in Form 6 indemnifying the licensee against any loss on account of dispute arising out of effecting service to the occupier. The intending consumer has to pay security deposit twice the normal rate.

11.6 The valid proof for occupancy to be furnished are as below : Registered power of Attorney or latest rent receipt issued prior to the date of application or lease deed or possession order for an appropriate authority or decree or judgment of courts.

(i) Summing up, the service could be effected to owner of the premises if applied in the prescribed format along with any one of the ownership documents as specified in the note to application(ie) certified copy of proof of ownership such as sale deed/partition deed/gift settlement/allotment letter/computer patta/ownership certificate issued by revenue department officials/court judgment or recent property tax receipt.

(ii) In case of joint property, service could be effected on production of certified copies of proof of ownership such as legal heir certificate along with parent document specified in a previous para and consent letter from co-owners. If consent letter is not produced an indemnity bond with enhanced security deposit.

(iii) The service could be effected to occupier with consent letter of the owner in Form 5. If the owner's consent letter is not available then the application shall be submitted with valid proof for occupation of the premises along with indemnity bond in Form 6 and payment of Security deposit twice the normal rate. The valid proof of occupancy has been defined as documents such as registered power of attorney or latest rent receipt issued prior to the date of application or lease deed or possession order from the appropriate authority or decree or judgment of the Courts.

12. Findings on the second issue:

12.1 The Appellant put forth the following arguments in support of effecting a 3 phase service connection for his premises at No. 151/2A, Camp Road, Selaiyur, Chennai.

(i) The Appellant is in possession of the premises and he is in full enjoyment of the property by virtue of the settlement deed executed between him and his brother Chellaperumal. A copy of settlement deed executed by Thiru Govinda Pillai in favour of his sons, Thiru Chellaperumal and Thiru Gopalakrishnan is enclosed to show and prove the ownership of the property by the Appellant.

(ii) His brother Thiru Chellaperumal is enjoying this joint property under the same settlement and he has been provided with 12 service connection. Similarly, he is also entitled for a service connection.

(iii) The Appellant is in absolute possession and enjoyment of the property from the date of settlement and no further proof is required for the purpose as lawful ownership. The Appellant has also constructed a small portion in that area and the provisions has also been inspected by the TANGEDCO Selaiyur officials. He has furnished a photo of the shed also.

(iv) In another similar case for providing a service connection for the residence of the Appellant in Selaiyur based on the orders dated 3.9.2016 of CGRF of Chennai Electricity Distribution Circle / South, in petition No. 119/2016, service was effected.

(v) The Appellant pointing out sub clause 3 of Distribution 6 of the terms and conditions of TANGEDCO and argued that as per the said clause, there is a provision to effect service even to a tenant who is in lawful occupation of the premises on production of proof of his lawful occupancy and on executing an indemnity bond if the owner refuses to give the consent letter. But in his case, he himself is the joint owner of the property and in absolute possession of the property ever since the settlement and in lawful occupation. Therefore, he argued that he shall be provided with a service connection.

(vi) The Appellant argued that the reasons for rejection by the Assistant Engineer / Selaiyur was the suit filed by Thiru Chellaperumal under OS No. 162/2015 in the District Munsif Court, Tambaram. The entire proceedings have been stayed in favour of the Appellant in I.A. No. 634/2015 for which a review petition under CRP No.148/2016 has been filed by Thiru Chellaperumal in the High Court of Madras. Even though the order of the District Munsif Court, Tambaram in the above said I.A is in favour of the Appellant, the Assistant Engineer / Selaiyur and CGRF without applying their

mind to go into the details of case in the true perspective and merits of the case, rejected the application as a matter of routine.

(vii) The Appellant also furnished a copy of complaint lodged with Selaiyur Police in CSR No. 418106 dated 22.9.2006 in support of his possession of the site.

(viii) The Appellant also argued that Thiru Chellaperumal has admitted that Thiru G. Gopalakrishnan, the Appellant herein is holding half share in the property wherein service was requested in the counter filed in O.S.No.114/2013, on the file of the District Munsif Court, Tambaram.

(ix) He has also informed that A.S.No.381 of 2014 filed by him against the decree and judgment in O.S.No.372 of 2004 and A.S.No.484 of 2013 filed by Thiru. Chellaperumal against the decree and judgment in O.S.No.372 of 2004 are pending before the Hon'ble High Court of Madras.

(x) He also argued that in the judgment in O.S.N.372 of 2004, the court has recorded the both he and his brother are entitled to 1/2 share each. But, in conclusion the Court held that the first plaintiff is not entitled to claim partition in respect of scheduled properties. Therefore, he argued that he is having 1/2 share in the said complex.

(xi) He has also furnished a copy of tax receipt in the joint names of Thiru. Chellaperuual & Gopalakrishnan and argued that he is the joint owner of the property wherein a service was requested.

12.2 The Respondent has put forth the following arguments

(i) As there is a dispute over the ownership of the premises where service was sought for and cases are pending before Hon'ble High Court of Madras, the AE argued that service could not be effected.

(ii) The CGRF has ordered to effect service, if the Appellant furnish N.O.C obtained from Thiru. Chellaperumal. But, the Appellant has not produced N.O.C but filed an appeal petition.

12.3 Arguments put forth by Thiru. Chellaperumal, who is objecting to effect service in the name of Gopalakrishnan.

(i) The Hon'ble Additional District Judge, Chengalpet was pleased to pass decree and judgment in O.S.No.372 of 2004, wherein the Hon'ble Court accepted the oral partition between G.Gopalakrishnan and G. Chellaperumal, therefore, the settlement deed did not hold valid protection in the eye of law.

(ii) As per the Hon'ble Court Decree judgment in O.S. No.372 of 2004, Thiru. G. Chellaperumal alone is the absolute owner of the property. Hence, the question of joint possession does not arise at all as claimed by the Appellant.

(iii) The Appellant is neither the owner of the property nor the tenant of the property as held by the Hon'ble Court in O.S.No.372 of 2004 to get service connection as per the procedure of TANGEDCO.

(iv) The Appellant continuously disturbed the peaceful possession and enjoyment of property belonging to Chellaperumal. A suit for injunction in O.S.No.162 of 2015 was filed before the Hon'ble District Munsif Court at Tambaram by Chellaperumal against Gopalakrishnan and the same is pending as on date. But, the Appellant has preferred an application to stay all further proceedings in O.S.no.162 of 2015 and the same was accepted because of pending of the appeal

suit in A.S.381 of 2014 before the Hon'ble High Court and against the said order Chellaperumal has preferred CRP No.148 of 2016 and the same is pending before the Hon'ble High Court.

(v) Several suits, appeals are pending before the lower Court and in the Hon'ble Court of Madras and unless and until final decree is passed, giving service connection may not be entertained.

(vi) Because of pending of partition suits in O.S.No.372 of 2004 and O.S.No.288 of 2015, the Hon'ble District Munsif Court declined to give separate service connection to Chellaperumal in O.S.No. 151 of 2009. Hence, how the appellant can claim a separate service.

(vii) He also argued that in respect of Chinnakuzhandaiyammal complex the property tax is paid by him only and is in his name only. He has produced copy of tax receipt for the building at 151/2A, Camp Road, Selaiyur for the period from 2009 to 2017-18.

(viii) When there are various proceedings pending between both the parties and all the suits pending before the appropriate forums either by way of original suit or by way of appeals and at this stage, the appellant diverting the regular process and proceeding in different route is against judicial principals of law and such circumstances, the appeal cannot be entertained.

12.4 On a careful consideration of the arguments of the parties, it is observed that

- (i) Service connection was sought for by the Appellant for a premises at 141/2A, Camp Road, Selaiyur, Chennai 73 stating that he is a joint owner.
- (ii) As per the settlement executed by Thiru. Govindapillai, father of the Appellant Thiru. Gopalakrishnan and his brother Thiru. Chellaperumal are

the joint owners of certain properties covered in the settlement which includes the property bearing SF No.151/2A, Selaiyur also.

- (iii) A case has been filed for partition of the properties in O.S.No. 372/2004 and a judgment has also been issued by the Additional District Judge on 31.7.2012.
- (iv) Thiru. G. Golapalakashnan, the Appellant herein has filed appeals suit in A.S.No.381 of 2014 before the Hon'ble High Court and Thiru. G. Gopalakashnan and Thiru. G. Chellaperumal has also preferred appeals in A.S.No.484 & 485 of 2013 before the Hon'ble High Court of Madras against the judgment & decree issued in O.S.No.372 of 2004 are pending.
- (v) Chellaperumal filed a suit for injunction in O.S.No.162 of 2015 before the Hon'ble District Munsif Court at Tambaram against Gopalakashnan and the same is pending. But, Gopalakashnan has preferred an application in IA 634/2015 in OS 165/2015 to stay all further proceedings in O.S.No.162 of 2015 and the same was accepted and stay was issued till the disposal of AS No.381 of 2014 pending before the Hon'ble High Court. Against the said order Chellaperumal has preferred CRP No.148 of 2016 and the same is also pending before the High Court.

12.5 As per my findings in first issue, service connection could be effected to a owner, if an application in the prescribed form 1 is submitted along with the documents as specified in the note to the said format.

As per the note of the format, any one the following are the documents required towards proof of ownership.

- (i) Sale Deed
- (ii) Partition deed

- (iii) Gift Settlement
- (iv) Allotment letter
- (v) Computer patta
- (vi) Ownership certificate issued by revenue department officials
- (vii) Court judgment
- (viii) Recent Property tax

12.6 In case of joint property certified copies of ownership such as legal heir certificate along with documents specified in note(i) and consent letter from co owner. If consent letter is not produced an indemnity bond with enhanced security deposit.

12.7 In the case on hand, the Appellant, is arguing the he is the joint owner of the premises. In such case the has to produce copy of ownership documents specified in para above and a N.O.C. from the co owners.

12.8 The Respondent has sought for N.O.C. from the co owners. But, he was unable to produce NOC. However, he argued when services were given to the co owner without NOC why not to him also. As per the provision in case of joint property, the service could be effected on production of certified copies of proof of ownership such as legal heir certificate along with parent documents specified in note(i) above and consent letters from co-owners. If consent letter is not produced, an indemnity bond with enhanced security deposit.

12.9 In the case on hand, Thiru. Chellaperumal has disputed the argument of the Appellant that it is a joint property and argued that he is the owner of the premises as per the judgment delivered in OS No.372 of 2004 by the Additional District Judge, Kancheepuram District at Chengalpattu.

12.10 Thiru. Chellaperumal argued that as the judgment has been delivered in the partition case, the settlement deed has no legal value. He has also argued that he is paying the property tax for the said property from 2009-10 to till date.

12.11 The Appellant argued that as per the settlement deed, executed by their father he and his brother are the joint owner of the property in question. He also furnished a copy of tax receipt in the joint name of Chellaperumal and Gopalakrishnan for the period 95-96 and argued that they are the joint owner.

12.12 It is noted that appeals were filed by both Thiru. Gopalakrishnan & Thiru. Chellaperumal against the judgment in AS No.381 of 2014 and AS 484 of 2013 & AS.No.485 of 2013 respectively and those cases are pending before the Hon'ble High Court of Madras. As the appeals are pending against the judgment & decree of the trial court issued in OS No372 of 2004, I am of considered of the opinion that, the ownership issue is pending before the Hon'ble High Court.

12.13 The Electricity Ombudsman has jurisdiction only to adjudicate the issue on the Electricity matters and has no jurisdiction to decide about the ownership issue.

12.14 As the ownership issues is pending before the Hon'ble High Court I am of the opinion that Electricity ombudsman cannot decide whether the property in question is jointly owned by Appellant and Chelleperumal as argued by the Appellant or owned by Thiru. Chellaperumal alone as argued by Thriu. Chelleperumal.

12.15 Under the above circumstances, it is held that the effecting of service considering the Appellant as joint owner may be decided after finalization of the pending cases.

12.16 The next argument putforth by the Appellant is that he is in possession of the premises. As per the regulation even the tenants are having right to avail a service considering him as an occupier. As he is having possession, he argued that he

may be provided with the service. He also argued that when 12 services have been effected in the name of Thiru. Chellaperumal, a service may be effected to him also.

12.17 In this regard, as per regulation 27(4) of the Distribution Code, the service connection could be effected to the occupier also even if the owner is refuses to give consent letter, by producing valid proof of his occupation of the premises.

12.18 The valid proof has been explained in the explanation given under regulation 27(4) of the Distribution Code, which is extracted below :

27. Requisitions for Supply of Energy:

(3) xxx xxxx xxxx

(4). *An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce valid proof of his/her being in occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.*

Explanation:- For the purpose of this sub-regulation, the expression "valid proof" means any proof of occupancy such as registered power of attorney or latest rent receipt issued prior to the date of application or lease deed or possession order from appropriate authority or decree or judgment of Courts.

12.19 On a careful reading of the explanation , it is noted that the valid proof of occupancy could be established by producing the documents such as

- (i) Registered power attorney
- (ii) Latest rent receipt issued prior to the date of application
- (iii) Lease deed
- (iv) Possession order from appropriate authority
- (v) decree or judgment of courts

12.20 The appellant has not produced any of the above certificate but argued that he is in possession of the premises and have cited his complaints to police and photo of the shed with name board in support of his possession.

12.21 There is a counter claim from Thiru Chellaperumal also in this regard. He has also cited some police complaints lodged. He has also cited a case filed before the Hon'ble District Munsif Court, Tambaram in OS No.162 of 2015 for interim injunction but the proceedings against case No. 162 of 2015 was stayed based on the application of Thiru Gopalakrishnan and Chellaperumal has preferred CRP No. 148 of 2016 and the same is also pending.

12.22 As Thiru Gopalakrishnan, the Appellant herein has not established that he is in occupation of the said premises by any valid documents, his claim of effecting service as an occupier could also be not acceptable.

13. Conclusion:

13.1 As the ownership of the premises where service connection is sought by the Appellant is pending before various courts, the effecting of service in the name of the Appellant considering him as the joint owner of the property shall be decided based on the judgements of the pending cases.

13.2 With the above findings the AP No. 15 of 2017 is finally disposed by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To
1) Thiru G. Gopalakrishnan
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2) The Assistant Engineer / O & M,
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3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle/South-II
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4) The Chairman & Managing Director,
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5) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
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6) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
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