



TAMIL NADU ELECTRICITY OMBUDSMAN

19- A, Rukmini Lakshmiipathy Salai, (Marshal Road),
Egmore, Chennai – 600 008.

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No.82 of 2016

Thirumathi L. Rukmani,
W/o C. Lakshmanan,
No.30, Ashoka Street, Lakshmiipuram,
Chennai – 600 009.

..... Appellant
(Rep by Thiru Venkatesalu, Advocate)

Vs

- 1) The Chairman,
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle / North,
TANGEDCO,
5B, Block, 144, Anna Salai,
Chennai – 600 002.
- 2) The Executive Engineer
O & M / Perambur,
Chennai Electricity Distribution Circle / North
TANGEDCO,
MTS Paper Mills Road,
Periyar Nagar, Chennai – 600 082.
- 3) The Assistant Executive Engineer,
O & M / Perambur,
Chennai Electricity Distribution Circle / North
TANGEDCO,
33/11 kv ss, Periyar Nagar, Chennai – 600 082.
- 4) The Assistant Engineer
O & M / Rettery,
Chennai Electricity Distribution Circle / North,
TANGEDCO, No. 10, Secretariat Colony,
2nd Street, Rettery, Chennai – 600 099.

... Respondents

(Rep by Thiru. P. Arunachalam, EE/Perambur on 5.1.17,
Thiru. K. Arunachalam, AEE/Perambur &
Thiru. V. Babuji, AE/Retteri on 5.1.17 & 10.2.17)

5) Thiru D. Jayakumar,
No.30, Ashoka Street,
Lakshmipuram
Chennai – 600 099.

. Respondents
(Party in person on 5.1.17 & 10.2.17
Thiru. M. Devendran, Advocate on 10.2.17)

Date of hearing : 5-1-2017 & 10-2-2017

Date of order : 24-4-2017

The petition dated 7.10.2016 filed by Thirumathi L. Rukmani, W/o C. Lakshmanan, Lakshmipuram, Chennai – 600 099 was registered as Appeal petition No. 82 of 2016. The above appeal petition came up for hearing before the Electricity Ombudsman on 5-1-2017 & 10.2.2017. 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: It is prayed that order in petition No. 03 of 2016 dt.29-7-2016 on the file of the Chairman, CGRF, Chennai Electricity Distribution Circle / North, TNEB, Chennai – 2 is unjust, illegal and in any event liable to be set aside and consequently directing the authorities to disconnect the service connection effected in the name of 5th Respondent / D. Jayakumar at No.30, Ashoka street, Lakshmipuram, Retteri and pass such order or further other orders and thus render justice.

2. Brief History of the case:

2.1 Thiru D. Jayakumar, the Respondent 5 herein has applied for a service connection at No. 30, Ashoka Street, Lakshmipuram, Chennai – 99. Thirumathi L. Rukmani, the Appellant herein has objected to effect service connection in the said premises stating that a case on the ownership of the said premises is pending in the

file of sub-court of Ponneri in OS No. 21 of 2016 between her and Thiru D. Jayakumar.

2.2 The Respondent 4 herein has accordingly intimated to Thiru Jayakumar, that the service connection could not be effected.

2.3 Subsequently Thiru D. Jayakumar has filed an application on 12-4-2016 for a new service connection and requested to effect service connection citing regulation 27 (4) of the Distribution code.

2.4 The Assistant Engineer / O & M, Retteri has effected a service connection in the said premises on 12-4-2016. The service connection number is 045-17-350.

2.5 The Appellant filed a petition before the CGRF of Chennai Electricity Distribution Circle / North and the CGRF has rejected its petition 'Aggrieved by the Order of the CGRF, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Order of the Forum :

The CGRF of Chennai Electricity Distribution Circle Order dt 7-8-2016 was despatched to the petitioner on 8-9-2016. The relevant para of the Order of the CGRF is extracted below :-

“ 3.The petitioner made objection to effect new service connection to one Thiru D. Jayakumar at D.No. 30, Ashoka street, Lakshmipuram service since there is a dispute pending in the court regarding ownership.

4. The Executive Engineer / O & M/ Perambur stated that as Thiru D. Jayakumar has produced documents for ownership of the premises and hence new SC was effected in his name with due intimation to the petitioner.

5. The Chairman/ CGRF informed the petitioner that the service was effected based on ownership documents produced by the Thiru D. Jayakumar and also produced an undertaking to abide the final judgement in OS No.21/2016 kept pending at sub-court ponneri, and hence further action will be taken as per the court direction in this regard.”

4. Contention of the Appellant furnished in the Appeal petition:

4.1 The appellant submits that, originally the properties belonged to her husband's ancestors. After demise of her husband's ancestors, the properties devolved on her husband Mr. Lakshmanan. The appellant and her family members have been in peaceful possession of the property for more than decades. The appellant's husband Mr. Lakshmanan. had executed a Registered Settlement deed on 10-09-2014 in favour of the appellant and her daughters' names are Tmt. L. Rekha, Selvi. L. Nagajothi, L.Nadhya for the property in Survey No.14 71/17, measuring an extent of 3783 Square Feet of Gramanatham house site along with Mangalore tiled house and thatched old huts, situate at No. 30, Asoka Street, Chennai Corporation Limit 32nd Ward, Madhavaram Revenue Group, Lakshmipuram, Madhavaram Taluk, Madhavaram Firka, Tiruvallur District.

4.2 The appellant submits that, the patta, house tax and water supply has been transferred in the name of appellant and her daughters' name jointly from the date of execution of Settlement deed.

4.3 The appellant submits that in the month of August 1994 her husband executed a rental agreement by receiving an amount of Rs.10,500/-from Mr.Munuswamy, for the measuring an extent of 640 square feet of house site and along with two thatched old huts and fixed the rent an amount of Rs.100/- per month. From July 2014, the tenant/Munuswamy, refused to pay the rent to the appellant. The appellant made a complaint against Mr. Munuswamy before the Madhavaram Police Station. The tenant/Mr.Munuswamy had produced an unregistered sale letter dated 11-08-1994 before the above said police station and claimed as an owner of the property. The tenant/Mr.Munuswamy had alleged that the appellant's husband Mr. Lakshmanan had executed an unregistered sale letter dated 11-08-1994 in his favour for an extent of 640 square feet out of 3783 Square Feet.

4.4. The appellant submits that, immediately on 23-11-2015 she applied the encumbrance certificate for the property and then she came to know that the tenant Mr. Munuswamy had executed a sale deed on 22-09-2014 in favour of Mr.Jayakumar, in a fraudulent manner. Hence, the appellant had issued a legal notice dated 09-12-2015 terminating the tenancy. The legal notice

returned from D. Jayakumar and Mr.Munuswamy unclaimed. Thereafter, the appellant and her family members' have filed a suit in O.S. No. 21 of 2016, on the file of Sub- Court at Ponneri for reliefs of declaration and permanent injunction over the property in question and the same is pending.

- 4.5 The appellant submits that, her husband had executed a settlement deed on 10-09-2014 in favour of the appellant and her daughters' name for the entire property of 3783 Square feet of land along with the houses. After execution of the entire property in favour of the appellant and her daughters' name, the tenant had executed the same property for measuring an extent of 640 Square feet out of 3783 square feet in favour of D.Jayakumar on 22-09-2014.
- 4.6 The appellant submits that, she came to know that the D.Jayakumar was attempting to get illegal electricity connection to the premises on the basis of fraudulent sale deed executed by tenant Mr.Munusamy, Hence, the appellant made her objection on 20-02-2016 to the Assistant Engineer, Operation and Maintenance, CEDC/North, TANGEDCO, Retterri to effect new service connection to Mr. D. Jayakumar, for the appellant properties situated at Door No.30, Ashoka Street, Lakshmiapuram. Further, she/appellant had informed to the Assistant Engineer, Retterri that she filed a Civil Suit in O.S. No.21/2016 at Ponneri Sub-Court against the Mr.D. Jayakumar and tenant Mr.Munusamy and requested not to effect new service connection- in the name of D.Jayakumar.
- 4.7 The appellant submits that, Mr. D. Jayakumar submitted an application on 15-02-2016 to effect new service connection in his name, the application was rejected by the Assistant Engineer, Operation and Maintenance, Retterri and directed him to produce the documents for ownership of the property, Again, Mr. D. Jayakumar submitted an application on 12-4-2016 with indemnity Bond dated 16-03-2016 for new service connection with ration card, Gas bill etc, which were obtained by colluding with tenant Mr. Munuswamy.
- 4.8 The appellant submits that in spite of the appellant's objection, the Assistant Engineer, Operation and Maintenance, TANGEDCO, Retterri, sanctioned a new service connection no. 045:17:350 dated 12-04-2016

vide proceeding No.626/A437/20/2016-2017 dated 12-04-2016 in favour of the 5th respondent/ D. Jayakumar, taking into consideration of his ration card, Aadhar Card, gas connection etc. The appellant submits that while executing sale deed dated 22-09-2014, Mr. Munuswamy himself mentioned in his sale deed that the property belongs to appellant's husband Mr. Lakshmanan, further he alleged that the appellant's husband had executed the property in favour of Mr. Munuswamy by the way of an unregistered sale letter. The tenant and 5th respondent/Mr. D.Jayakumar are colluded to grab the appellant's property by executing fraudulent sale deed in illegal manner. The 5th respondent/Mr. D.Jayakumar is claiming the property as a purchaser from Mr. Munuswamy, who has no right over the property. The tenant had no right to execute the sale deed in favour of Mr.D.Jayakumar. The immovable property is required to be registered.

- 4.9 That the 1 to 4 respondents had failed to note that the Electricity Act does not authorise the electricity department to give electricity service connection to the person who is not lawful occupant of the property and there was no justification to seek the electricity service connection to a property which is not owned by him. The 5th respondent / Mr. D. Jayakumar is an unauthorised occupant/owner of the premises and he is not entitled to get any benefit of S.43of the Electricity Act, 2003.
- 4.10 That the respondents 1 to 4 had failed to note that the Indemnity Bond is required only when the intending consumer is not the owner of the premises. The indemnity bond was given by the service seeker / D. Jayakumar. The Electricity department violated the rules to collect enhanced security deposit while providing new service connection.
- 4.11 That the respondents 1 to 4 had failed to note that the expression of occupier and owner mentioned in S.43 of the Electricity Act, 2003, shall not include an unauthorised occupant / owner of the premises, within the class of persons denoted by it.
- 4.12 That the respondents 1 to 4 had failed to note that, a person who force himself into any part of a premises owned by someone else cannot be treated as an occupier of such premises for the purpose of S.43 of the

Electricity act, 2003. For being treated as such he must show that at some point of time in past he was put into the occupation in question by the owner of the premises.

- 4.13 That the respondents 1 to 4 had failed to note that, an intending consumer who is not the owner of the premises shall provide consent letter in form 4 of Annexure III to this Code from the owner of the premises for availing the supply. If the owner not available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also to execute an indemnity bond. The respondent / Mr. D. Jayakumar, who is not an owner of the property or legal occupant of the premises. He obtained the documents for address proof even before the execution of sale deed dated 22-09-2014 for the same property. On the basis of the fraudulent sale deed dated 22-09-2014 and address proof the 5th respondent obtained Electricity Ombudsman by submitting Indemnity bond. The 5th respondent / D. Jayakumar had executed an Indemnity bond stating that any dispute arises at a later date the electricity supply given in his regard will not confer any claim on the ownership of the land. The TNEB had obtained and indemnity bond from the illegal occupant of the property. The 4th respondent had issued the electricity connection by violating all the norms with hidden intentions and the service connection should therefore be immediately disconnected.
- 4.14 That the 1 to 4 respondents had failed to note that the appellant submitted an objection letter on 20-02-2016 in which she mentioned that there is a Civil Suit in O.S No. 21 of 2016 pending on the file of the Sub-Court, Ponneri and as such, no service connection should be effected to the petition premises.
- 4.15 That the 1 to 4 respondents had failed to note that the patta was transferred and stands in the name of appellant and her family members till date. There is no patta issued in the name of 5th respondent / D. Jayakumar or in his vendor name.
- 4.16 That the 1 to 4 respondents had failed to note that the 5th respondent claim was that he purchased the property vide sale deed dated 22-09-

2014 from Mr. Munuswamy, and from the date of purchase he is in possession of the property. But 5th respondent had produced the documents for proof of address for the year 2012 & 2013 to the same property. The 5th respondent / D. Jayakumar and Mr. munuswamy colluded and obtained the revenue documents for the address proof even before the sale deed dated 22-09-2014.

4.17 That the 1 to 4 respondents had failed to note that the appellant and her family members are paying tax to the Chennai Metropolitan Water Supply and Sewerage Board, Chennai till date to the property.

4.18 That the 1 to 4 respondents had failed to note that the appellant has been paying the property tax to the Corporation of Chennai.

4.19 That the 1 to 4 respondents had failed to note that the appellants produced the documents of EB Bill, Family Card, Election Cards, Notice of Assessment, Aadhaar Card to the property.

4.20 That the 1 to 4 respondents had failed to note that the 5th respondent / Mr. D. Jayakumar had obtained the fraudulent sale deed from Mr. Munuswamy, who is a tenant of Appellant.

4.21 That the 1st respondent / Chairman, CGRF has not properly perused the documents produced before him by the appellant and has passed a non-speaking order.

4.22 That the 1 to 4 respondents had failed to note that the 5th respondent/ D. Jayakumar suppressed the material fact and obtained new service connection in his name for the appellant's property.

5. Contention of the Respondents - 1 to 4 :

5.1 The Superintending Engineer/Chennai EDC/North has filed the counter on behalf of all the Respondents.

5.2 The Assistant Engineer/O&M/Retteri has received one domestic service connection application from THiru. D. Jayakumar who is the 5th Respondent in the above case on 15.2.2016 for the property situated at SF NO.1471/17, D.No.30/30 Ashoka Street, Rettery Chennai 6000 099. Further submit that the AE/O&M/Retteri, was already in receipt of an objection letter dated 9.12.2015 and 20.2.2016 from the Tmt. L. Rukmani

and others stating that not to effect a new service connection to the above mentioned property and there is a Civil Suit in O.S. No.21 of 2016 is pending before the Sub-Court at Ponneri regarding the ownership between Thiru.D.Jayakumar and Tmt. L.Rukmani. Hence, the Assistant Engineer/O&M/Retty has cancelled the above said application and the same was intimated to the applicant and also to the petitioner on 27.02.2016.

5.3 Even though the 5th respondent had applied for a new service connection on 15.02.2016 along with the Registered Sale Deed copy and his application was rejected only due to the above said Civil Suit in O.S. No.21 of 2016 pending before the Sub-Court at Ponneri. The 5th respondent had submitted his fresh application again on 12.04.2016 as a Tenant/Enjoyer/Lawful Occupant of the property along with the following documents (ie) Voter I.D. and Adhar Card. as - Proof of his occupancy and executed an Indemnity Bond.

5.4 The Assistant Engineer/O&M/Retty has considered the above said application dated 12.04.2016 of Thiru. D. Jayakumar based on Tamil Nadu Electricity Regulatory Commission Supply Code Section 27 (4) stating that "If the owner is not available or refuse to give consent letter, the intending consumer shall produce proof of his/her being in lawful 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 off effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate".

5.5 As per the above said provision the Board has registered the above said service connection application which was given by the 5th respondent who is a legal occupant of the property situate at No.30/30, Ashoka Street, Rettery, Chennai - 600 099 and the same was sanctioned vide San. NO.626/A437/2016-17, dated 12.04.2016 with twice deposit.

5.6 The appeal of the petitioner to the Executive Engineer/O&M/Perambur was handled properly and disposed purely on merit vide his letter No. EE/O&M/PER/AE/ R.46ITA2/ F.CGRF/ Pet/D.No.160/16, dated 30.06.2016. But it is understood that the petitioner is trying to solve the Civil dispute between them by out of the way and involving the

licensee for her personal civil issue and the dispute between the petitioner and 5th respondent the Board is correctly followed the TNERC Provisions and effected the service connection in favour of the 5th Respondent by getting proper lawful occupant in the above said premises.

5.7 The petitioner further approached the Chairman, CGR'F was also properly handled with personal hearing of the petitioner, where the petitioner failed to prove that the 5th respondent is not a legal occupant of the property where the service connection was effected nor he produced any valid document in support of her argument. The petitioner has not come to this Forum with clean hands and the appeal will be dismissed in limine.

6. Hearing held by Electricity Ombudsman:

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearing was conducted on 5-1-2017 & 10-2-2017.

6.2 The Appellant was represented by Thiru R. Venkatesulu, Advocate on 5-1-2017 & 10-2-2017.

6.3 Thiru P. Arunachalam, Executive Engineer / Perambur the Respondent 2 herein, Thiru K. Arunachalam, Assistant Executive Engineer/Sembium, the Respondent 3, herein and Thiru V. Babuji, Assistant Engineer , Retteri, the Respondent 4 herein have attended the hearing on 5-1-2017. Thiru. K. Christopher, Assistant Executive Engineer/Sembium & Thiru Babuji, Assistant Engineer, Retteri have attended the hearing on 10-2-2017.

6.4 Thiru Jeyakumar, the Respondent 5 herein has also attended the hearing on 5-1-2017 & 10-2-2017 and putforth his side arguments. On 10.2.2017, Thiru M. Devendran, Advocate has attended the hearing on behalf of Thiru D. Jayakumar and putforth his arguments.

7. Arguments of the Appellant on the hearing date:

7.1 Thiru R. Venkatesulu, Advocate has reiterated the contents of the Appeal petition.

7.2 The learned Advocate argued that when a case is pending in the file of Sub-court Ponneri in OS No.21 of 2016, over the rights of the property the Respondent has effected service connection in the name of the person who is not the owner of the property.

7.3 The Respondents have effected service connection in the disputed property stating that he is the legal occupant of the house. Thiru Jayakumar is not the tenant of said property. There is no lease between Thiru Lakshmanan & Thiru D. Jayakuamr. Therefore, the learned advocate argued that he is not a legal occupant and service connection cannot be effected to him under regulation 27(4) of the Distribution code.

7.4 Thiru D. Jeyakumar cannot be the owner of the said property as he has purchased land from Thiru Munusamy who is only a tenant. The learned Advocate also cited, the property tax receipt, water tax receipt, and argued that the Appellant and others alone are the owner of the property.

7.5 As Thiru D. Jayakumar is neither owner nor legal occupier of the house, the Advocate argued that the service effected is not as per the regulations and is to be disconnected.

7.6 The learned Advocate argued that Thiru D. Jayakumar has not furnished the documents mentioned as valid proof in the regulation for availing the service.

7.7 The learned Advocate argued that the documents of valid proof submitted by Thiru D. Jayakumar, viz., the Ration Card, the Aadhaar card, voter ID, Gas connection, Bank account, etc cannot be treated on par with the documents mentioned in the regulation. He argued the documents mentioned in the Regulation lease deed, copy of rent receipt etc to establish the Applicant as an authorised occupant. But the documents submitted by the Appellant is not similar to those documents. Therefore, they cannot be taken as valid documents

7.8 The learned Advocate also argued that as etc was not mentioned in the regulation after the type of documents that are to be considered as valid proof, the documents furnished by Thiru D. Jayakumar could not be treated as valid proof for his occupancy.

7.9 The learned Advocate argued that Thiru D. Jayakumar can neither claim as a owner nor an occupier for effecting a service. As per 27 (4), the tenant when the owner refuses to give consent, can get a service connection by furnishing a valid proof. Here, Thiru D. Jayakumar is not the tenant of Thiru Lakshmanan. Hence, his case cannot come under regulation 27(4) of the Distribution Code.

7.10 The learned Advocate argued that when their request for a service as a owner was rejected by the licensee, Thiru D. Jayakumar would have challenged the order of the licensee in the appropriate forum. But he has applied for a service connection as an occupant of the house. This is not correct.

7.11 The Advocate citing the counter of Respondent – 5 argued that only thatched house is available in the disputed site, but in para 2, it was informed that a house with asbestos roof. The above is not correct.

8. Arguments of the Respondent :

8.1 The Assistant Executive Engineer, Perambur reiterated the contents of the counter affidavit.

8.2. The AEE/Perambur argued that the application seeking service connection submitted by Thiru Jayakumar as owner of the premises was returned as the dispute on the ownership of the said premises was pending before the Sub Court at Ponneri in O.S.No.21 of 2016.

8.3. The AEE informed that service was effected in the name of Thiru D. Jayakumar based on his application dated 12.4.2016 considering him as a lawful occupant of the premises. He also informed that the applicant has submitted copy of Ration Card, Gas connection Receipt, voter ID, Aadhar card and driving license in support of his lawful occupation.

8.4. The AEE argued that as per Regulation 27 (4) of the Distribution Code, service may be effected in the name of the occupier of the premises even if the owner refuse to give consent letter, on execution of Indemnity Bond in Form 6 of the annexure to the Code, and on payment of Security Deposit at twice the normal rate. As Thiru D. Jayakumar has furnished indemnity bond in Form 6 and furnished the SD at twice the normal rate, he argued that the service effected is as per Regulation only.

9. Argument of the 5th Respondent:

9.1. Thiru. Devendran, Advocate attended the hearing and putforth his arguments. He has furnished his written submission on 10.2.17. The arguments furnished in the written submission are furnished below :

- (i) The 5th respondent submits that his maternal uncle Mr. Munusamy, S/o..Mr.Vellai, had purchased the Gramanatham poromboke empty land from Mr.Lakshmanan and Mrs.Rukmani, W/o. Lakshmanan on 11.08.1994 for the sum of Rs. 10,500/- and its survey number is 147/17 extent 640 sq.ft., land. After he made one thatched house there and was residing from that day and he got Ration Card, Voter ID in his name.
- (ii) The 5th respondent submits that he and his family members are also residing along with his uncle Mr.Munusamy in the address at Door No.30, Ashoka Street, Lakshmipuram, Chennai - 600 039, from the day of purchasing the land. In the year 2014 Mr. Munusamy requested the 5th respondent's mother to purchase his land. The 5th respondent purchased the said grammanatham poromboke land from Munusamy, S/0. Vellai for the sum of Rs.9,61,000/- by sale deed document No.5395/2014 and it is registered in Madhavaram Sub Registrar Office on 22.09.2014.
- (iii) The 5th respondent submits that after purchasing the land, he constructed house with Cement sheet roof. He gave the petition to A.E., T.N.E.B. Rettery Section, Chennai - 99 for getting single phase house connection on 15.2.2016 along with the sale deed document (No.5315/2014). The same is rejected by the A.B. Rettery on 27.2.2016, because one Mr.Lakshmanan who had already hold the property filed a case against the 5th respondent at Hon'ble Ponneri Sub Court. Hence, the 5th respondent sent a complaint U/s. 27 (4) Tamil Nadu Electricity Distribution Code to the Chairman, Chennai - 600 002, (2) E.E, Chennai - 11 (3) AEE, Chennai - 11 and A.E. Rettery, Chennai on 8.3.2016 against the rejection of the petition dated 15.2.2016.

- (iv) The 5th respondent submits that he again gave the second petition to the concern Electricity A.E., Rettery to provide the connection of house line with indemnity bond Rs.80 on 15.3.2016 along with all the residential proof documents namely Ration Card, Voter Card, Driving Licence, Gas connection and Sale deed book etc., While submitting, the Indemnity bond, he clearly mentioned that, he is ready to abide as per the final judgment in O.S.No.21/16 which is filed by Thiru. Lakshmanan and others.
- (v) He further submits that while they were submitting the suit, they did not mention a single word about Electricity connection and they did not get any order against the 5th respondent in any court regarding not to provide Electricity connection to the 5th respondent. They filed for suit only for possession of the property.
- (vi) The 5th respondent submits that he is the legal purchaser. He purchased the land on 2014 by registered sale deed from Mr. Munusamy and Mr. Munusarny also purchased the above said land from Mr. Lakshmanan and Mrs. Rukmani, W/o. Lakshmanan on 1994. So both proved their ownership of the property. Hence, there is no need to prove the tenancy (or) Power of Attorney etc and both are residing in the said same address for the past 20 years with all residential proofs. It is also submitted before the concerned officer at the time of petition submission.

10. **Findings of the Ombudsman**

- 10.1. On a careful consideration of the arguments of the Appellant and Respondents, the issue to be considered is 'whether the service connection effected in the name of the 5th Respondent could be disconnected ?

- 10.2. The Appellant's Advocate has put forth the following arguments:
- i. The Learned Advocate argued that Thiru D. Jayakumar is not a tenant. There is no lease deed between Thiru Lakshmanan and Thiru D. Jayakumar. Therefore, he argued that Thiru D. Jayakumar is not a legal occupant.
 - ii. The Learned Advocate argued that Thiru D. Jayakumar is not the owner of the property as he has purchased the property from Thiru Munusamy who is only a tenant to Thiru Lakshmanan and not the property owner.
 - iii. The Learned Advocate also argued that a case in O.S.No.21 of 2016 is pending at the Sub Court, Ponneri over the ownership of the premises. But the Respondent has effected service in the said place when the case is still pending.
 - iv. The Learned Advocate argued that the documents furnished by Thiru D. Jayakumar in proof of occupancy (viz.) Ration Card, Aadhar Card, Voter ID, Gas Connection Receipt, Bank Account, etc. are not the valid documents as detailed in the Regulation. The Advocate also argued that the documents mentioned in the Regulation (viz) Lease Deed, copy of the rent receipt, etc. Will establish that the occupant is an authorised person. But the documents furnished by Thiru. D. Jayakumar are not similar to the documents mentioned in the Regulation. Therefore, he argued that the service connection effected is not conforming to 27(4) and is to be disconnected only.
 - v. The Learned Advocate argued that as per Regulation 27 (4) when the owner refuses to give consent, the tenant can avail supply by furnishing valid proof of Indemnity Bond. But in the case on hand, Thiru D. Jayakumar is not a tenant of Thiru Lakshmanan. Therefore, Regulation 27 (4) is not applicable to this case.

10.3. The Respondent 1 to 4 furnished the following arguments :

- i. The Respondents argued that the service was effected in the name of Thiru D. Jayakumar considering him as an occupier of the premises and not as the owner of the premises.
- ii. As per Regulation 27 (4), if the owner is not available or refuses to give consent letter service connection will be effected to the intending consumer on production of proof of being lawful occupier of the premises and also by executing an indemnity bond in Form 6 of the annexure to the Code indemnifying the service against any loss on account of dispute arising out of effecting service connection to the occupant and on payment of Security Deposit at twice the normal rate. As the Respondent is furnished documents issued by Government Departments in support of being an occupier of the disputed premises he was considered as legal occupant and the service was effected considering Regulation 27 (4).

10.4. The Respondent 5 viz. Thiru D. Jayakumar putforth the following arguments:

- i. The Respondent 5 argued that his maternal uncle Thiru. Munusamy purchased the Gramanatham poramboke empty land of area 640 sq.ft. in SF No.147/17 from Thiru Lakshmanan and Tmt. Rukmani on 11.8.1994 for a sum of Rs. 10,500/- A thatched house was built by him and the family of Respondent 5 was also residing with him from day of purchasing the land.
- ii. The 5th respondent purchased the land from Thiru Munusamy by sale deed document No.5395/2014 and the sale deed was registered in Madhavaram Sub Registrar Office on 22.09.2014. After purchasing the land, he constructed house with Cement sheet roof.

- iii. He also argued that he is having Ration Card, Aadhar Card, Voter ID, Driving Licence and Gas connection in the same address and furnished to the licensee for effecting the service connection as an occupier pending court case on the ownership. He also informed that he is ready to abide as per the final judgement in O.S. 21 of 2016.
- iv. He further argued that in the said case, there is no word about Electricity Supply and there is no order of the Court not to provide electricity connection to the 5th Respondent.

10.5 As the licensees argued that the service was effected as per Regulation 27 (4) of the Distribution Code, the said Regulation 27 (4) is extracted below:

“27 (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 off 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 a latest recent receipt issued prior to the date of application or lease deed or possession order from the appropriate authority or decree or judgment of Courts.

10.6 On a careful reading of the said Regulation, it is noted that an intending consumer who is not the owner of the premises shall produce consent letter from the owner of the premises for availing supply. If the owner is not available or refuses to give consent letter, the intending consumer on production of valid proof of his occupation of the premises and on execution of indemnity bond in Form 6 of the Annexure III to Distribution Code indemnifying the licence against any loss on account of disputes arising out of effecting service connection and on payment of security deposit at twice the normal rate, can get a service connection.

10.7 Further, in the explanation it has been stated that the valid proof means, any proof of occupancy such as Register of Power of Attorney or latest rent receipt issued prior to the date of application or lease deed or possession order from appropriate authority or judgement of court.

10.8 In the case on hand, the following copy of documents have been furnished by the Respondent 5 in proof of his occupancy as per the licensee.

- (i) Ration Card
- (ii) Aadhar Card
- (iii) Voter ID
- (iv) Gas connection
- (v) Bank Pass Book
- (vi) Driving License
- (vii) Pan Card
- (viii) Sale deed of the said premises

10.9 On a careful examination of the details, it is noted that the documents are issued on the date noted against each and contains the address noted against each.

| | |
|--|--|
| 1. Ration Card 2005-2009 01/G/0387154 | Thiru Jayakumar – name is found and his age is 12 Address Old No.15, New No.30, Ashoka Street, Thiruvottiyur, Chennai 99. |
|--|--|

| | |
|---|--|
| 2. Aadhar Card | Jayakumar Duraisamy No.3356 6665 5068 S/oDuraisamy Address: No.30 Ahoka Street, Lakshmipuram, Kolathur, Thiruvallur, Tamil Nadu 600 0099. |
| 3. Voter ID | Electors name - Jayakumar SCY No.1095462 Date 4.1.2012 Address: 30/30 Ashoka Street, Lakshmipuram, 600 099. |
| 4. Gas Connection D.S. Bharath Gas Enterprises, No.22/468, Mahadevan Street, GKM Colony, Periyar Nagar, Perambur, Chennai – 82. | Customer Name Mr. D. Jayakumar Card SI.No.C1571762 Customer: 71231561 Address: 30/30A Ashoka Street, Lakshmipuram, Kulathur, Ch- 99. |
| 5. Bank Pass Book State Bank of India Thirumalai Nagar, No.31/32, Thirumalari Nagar | Customer Name : D. Jayakumar State Bank of India SB A/c No.20247007483 Address 30/30 Ashoka Street, Lakshmipuram, Kolathur , Chennai |
| vi. Driving License | Name : D. Jayakumar, DL No.TN05 20130009907 Date of issue: 3.9.2013 Address: 30/30 Ashoka Street, Lakshmipuram Kolathur, 600 099. |
| vii. Pan Card | Address not available |

10.10 On a careful analysis of the above details, it is noted that Thiru D. Jayakumar was residing at the said address even when he was 12 years old as per the ration card. The voter ID was issued on 4.1.2012 and the Driving license was issued on 3.9.2013.

10.11 In the ration card the no. was mentioned as Old No.15 and New No.30 Ashoka Street. But in all other documents, the number was mentioned as 30/30 Ashoka Street except in Gas connection where it is mentioned as 30 / 30 A Ashoka Street.

10.12 The documents above mentioned are not the documents mentioned in the explanation given under the regulation 27(4) of Distribution Code. But, they establishes the occupancy of Thiru D. Jayakumar in the said address. All the above documents are issued by various State / Central Government departments. Hence, I am unable to discard the above documents.

10.13 Further, in the Regulation it has been stated that the 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 appropriate authority or decree or judgment of Courts. As it has been stipulated that the documents such as registered power of attorney. xxx xxx xxx, I am of the view that the list of documents shown in the explanation under Regulation 27 (4) is not an exhaustive list, but a list of indicative items only.

10.14 Further, I would like to refer, the prayer of the Tmt. L. Rukmani & others in O.S.No.21/16 which is furnished below :

“17(a) For a declaration of title over the “B” schedule mentioned properties and directing the defendants to quit and deliver the vacant possession after removing the two old thatched huts and also after removal of any obstructions there on in “B” schedule mentioned properties as detailed in the rough sketch and handed over the same to the plaintiffs.”

10.15 On a careful reading of the above prayer, it is noted that the plaintiffs have prayed for declaration of title over the “B” schedule mentioned properties and directing the defendants (The Munusamy & D. Jeyakumar) to quit and deliver the vacant possession after removing the two old thatched huts.

10.16 The above prayer establishes that Thiru. D. Jeyakumar and Thiru. Munusamy are occupying the property under dispute. This also indicates that Thiru. D. Jeyakumar is in occupation of the disputed property.

10.17 In the case on hand, Thiru D. Jayakumar has stated that he is ready to abide as per the final judgement in O.S.No.21/16 which is pending in the Courts of subordinate judge at Ponneri.

10.18 Electricity is a basic amenity and is a fundamental requirement for living a decent life.

10.19 As the occupancy of Thiru. D. Jayakumar in the said premises has been established and electricity is a basic amenity and is a fundamental requirement for living a decent life and as Thiru. D. Jayakumar has given undertaking to abide the orders of the judgment in O.S. No.21/16 pending at Sub Court Ponneri in respect of ownership of the disputed property, I am of the view that the disconnection of SC No.045-017-350 may be decided based on the final judgements in O.S.No.21/16.

11. Conclusion:

11.1 In view of my findings in para 10 above, the disconnection of S.C.No.045-17-350 effected in the name of the 5th Respondent (viz.) Thiru D. Jayakumar may be decided based on the final judgement in O.S.No.21/16 pending at sub-court, Ponneri.

11.2 With the above findings, the A.P. No.82 of 2016 is finally disposed of by Electricity Ombudsman.

(A. Dharmaraj)
Electricity Ombudsman

To

- 1) Thirumathi L. Rukmani,
W/o C. Lakshmanan,
No.30, Ashoka Street, Lakshmipuram,
Chennai – 600 009.
- 2) The Chairman,
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle / North,
TANGEDCO,
5B, Block, 144, Anna Salai,
Chennai – 600 002.
- 3) The Executive Engineer
O & M / Perambur,
Chennai Electricity Distribution Circle / North
TANGEDCO,
MTS Paper Mills Road,
Periyar Nagar, Chennai – 600 082.
- 4) The Assistant Executive Engineer,
O & M / Perambur,
Chennai Electricity Distribution Circle / North
TANGEDCO,
33/11 kv ss, Periyar Nagar, Chennai – 600 082.
- 5) The Assistant Engineer
O & M / Rettery,
Chennai Electricity Distribution Circle / North,
TANGEDCO, No. 10, Secretariat Colony,
2nd Street, Rettery,
Chennai – 600 099.
- 6) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai,
Chennai -600 002.
- 7) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.
- 8) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.