

BEFORE THE ELECTRICITY OMBUDSMAN
For the State of Goa and Union Territories (Except Delhi)
3rd Floor, Plot No. 55-56, Udyog Vihar-Phase IV, Sector 18,
Gurugram (Haryana) 122015

Ph.0124-4684715, Email: ombudsmanjerc@gmail.com

APPEAL No. 112/2019

Date of Hearing: 25.06.2019 at Puducherry

Thiru. P. Govindarajalou,
No. 10, 1st Floor, 22nd Cross,
Avvai Nagar, Lawspet,
Puducherry – 605 008.

...Appellant(s)

Versus

Superintending Engineer cum Head of Department,
Electricity Department- Puducherry,
137, Nethaji Subhash Chandra Bose Salai,
Puducherry- 605 001

...Defendant(s)


Parties present:

Appellant Sh. G. Manikandan (Son of the Appellant)

Respondents Sh. K. Ramanathan, Executive Engineer, Rural (North)
 Sh. P.R. Mohan, Assistant Engineer
 Sh. L. Candappane, Junior Engineer


Date of Order: 03.07.2019

The Appellant has preferred an appeal against Order dt. 28.02.2019 in Consumer Case No. 49/2018 by CGRF Puducherry. The Appeal was admitted on 01.05.2019 bearing Appeal No. 112 of 2019.


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A. Submissions by the Appellant:

1. The Appellant's wife has purchased an extent of vacant land 3 Kuzhi 2 Vessam (1800Sq Ft) at RS Number 164/1 Saram Village, Krishna Nagar, 14th Street main Road, J Cross bearing plot numbers 71,72,73,74 (450 Sq Ft. each), Puducherry, from the owner Tmt. Senthamizhselvi through her power agent Thiru. G. Sundaramoorthy in 1987. From 10/08/1987, we are enjoying the property as an absolute owner and in fact my wife has given a petition before the Director of survey and Land Records, Puducherry on 02.11.2012 with a request to demarcate her plots bearing No. 71,72,73,74 measuring to an extent of 3 Kuzhi 2 Veesam as per the registered sale deed dt. 10.08.1987 executed by the above said Thiru Sundaramurthy.
2. The wife of the Appellant was summoned on 30.11.2012 for field enquiry and demarcation and the above said plots were demarcated by the concerned Surveyor and identified plots No. 71 to 74 as per the registered sale deed dated 10.08.1987. Thus my wife remains in exclusive possession of her property. While so on 05.12.2012 when we tried to fill our plots with sand at about 4.00 P.M and at that time were interrupted by the gundas including Kuseladoss S/o Suburayan. Thereafter, we have given a complaint to the SHO Lawspet Police Station on 28.01.2013 and advised us by seeing necessary remedy before court of law. After this in-order to have a hold and with a view to grab a portion of my wife's plot Thiru. Kuseladoss who is living nearby my plot has made a forgery document in his daughter Tmt. Gayathiri name through my Ex. Owner's Husband (Late Thiru. Ramamoorthy) on 30.01.2013 which we came to know only on 13.11.2017 at the time of obtaining current connection in my wife's plot in the name of Tmt. Gayathiri.
3. In order to avoid the disturbances and the hurdles given by Thiru Kuseladoss and the husband of ex-owner, we have filed a civil suit in O.S. 192/2013 before the Hon'ble Principal District Munsif, Puducherry against the ex-owner Tmt. Senthamizhselvi H/o Thiru Ramamoorthy (Late), Thiru Kuseladoss F/o Tmt. Gayathiri, for the relief of Permanent Injunction restraining the above said persons from disturbing her peaceful possession and enjoyment over her property and also restraining my wife from alienating her property to any person by any mode of transfer. Unfortunately the above suit dismissed for default and subsequently my wife has filed petition to restore the suit and the same is still pending. There was no prohibitory order of injunction granted by the said

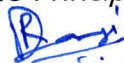

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court. I am also to state that Tmt. Gayathiri D/o Kuseladoss has also been brought into the case recently.

4. While so, on 14/11/2017, Thiru Kuseladoss F/o Tmt. S.Gayathiri entered into our plot bearing No.72 to an extent of 450 square feet and placed a temporary electricity connection in order to construct a house in our plot. On due enquiry we came to know that Thiru Kuseladoss F/o Tmt. S.Gayathiri with the help of Ex-owner's husband manipulated some documents and created a forged sale deed in favour of the Tmt. S.Gayathiri D/o Thiru. Kuseladoss in respect of our plot bearing No. 72 which was absolutely belongs to my wife by virtue of a registered sale deed dated 10/08/1987. We further submit that knowing very well that my wife is a absolute owner of the property bearing plot no.71 to 74, by virtue of a registered sale deed dated 10/08/1987 executed by Tmt. Senthamizhselvi through her power agent, Thiru. Sudaramoorthy, in order to dispossesses her and to grab her property, Thiru. Kuseladoss F/o Tmt. S. Gayathiri unlawfully executed a registered sale deed in favour of his daughter Tmt.S.Gayathiri.
5. We further submit that taking advantage of the execution of the forged sale deed dated 30/01/2013, by Tmt. Senthamizhselvi in favour of Tmt. S. Gayathiri, Thiru Kuseladoss and Tmt. S. Gayathiri are taking serious steps not only for illegal grabbing of my wife's plot bearing No.72, but also trying to dispossess my wife from her plot and also trying to make pukka construction in our plot by applying necessary permissions before the competent authorities. The first step of their plan is to obtain the Temporary electric connection for establishing their hold in my wife's plot. If they succeed in their illegal act, my wife and our family will be put into irreparable loss and hardship and it leads to multiplicity of proceedings.
6. On verifying all the above facts the Hon'ble forum issued an order in C.C. 21/2018 directing the Electricity Departments to disconnect temporary connection given to the plot No.72, owned to my wife in the name of Tmt. Gayathiri D/o S. Khuseladoss. The reading of the order are as follows:-

ORDER

"The respondents are directed to disconnect the temporary service connection already extended after expiry of the validity of the said temporary connection and the permanent service connection shall not be extended till the disposal of the court case O.S.No.192/2013 on the file of the Hon'ble Principle District Munsif at Puducherry." But



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despite of this, surprisingly the Hon'ble Forum has sent a summon to appear before it on 09/01/2019, since Tmt. S.Gayathiri D/o Khuseladoss has filed a case in the forum. Despite of furnishing my genuine grievances, the Forum has one-sidedly came to a conclusion and passed an order with a view to support deliberately my opponent for somewhat unknown reasons. In this order permission has been granted to Tmt. Gayathiri D/o S.Khuseladoss for the reconnection of the temporary service to the Plot No.72 owned to my wife.

7. I am therefore beg to submit your honorable Forum/ Court that kindly arrange to issue order directing the Electricity Department, Puducherry to disconnect the temporary connection given to the Plot No.72 in the name of the fraudulent owner S. Gayathiri D/o Kusheladoss in the light of my submissions please.

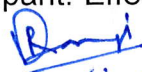
B. Submissions by the Respondent:

1. One temporary power connection for construction purpose in favour of one Tmt. S. Gayathiri Selvam at R.S. No.64/1/A, Plot No.72, "J" Cross Street, Krishna Nagar West, Near Sundramorrthy Nagar, Krishna Nagar, Puducherry under the jurisdiction of Assistant Engineer/ Lawspet and Junior Engineer/ Lawspet O&M, on 14.11.2017, based on the documents of Aadhar Card, Ration Card, Purchase deed No.393, dt. 30.01.2013, Power document deed No.3141, dt.21.12.1984 and Encumbrance Certificate dt.04.10.2016.
2. Subsequently, Objection was received from one Thiru. P. Govindarajalou on 15.11.2017 against the extension of temporary power supply, stating that the said plot was owned by his wife Tmt. G.Savithiri and the matter on ownership is pending in the Court of the Principal District Munsif at Puducherry vide O.S.No.192/2013 and hence requested to remove the temporary power connection immediately.
3. Based on the above objection both the applicant Tmt. S.Gayathiri and the petitioner Thiru. P.Govindarajalou were requested vide Ir. No.3073(B)/ED/AE-LPT/17-18, dt. 22.11.2017 and No.307(A)/ED/AE-LPT/17-18, dt.22.11.2017 respectively to produce copies of relevant documents as proof of their ownership. Further, the Thasildar,


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Revenue Department was also addressed vide Ir.No.3514/ED/AE-LPT/17-18, dt.21.12.2017 requesting for verification of the document copies furnished by them.

4. On this, the Thasildar has stated that Thiru. P.Govindarajalou has filed a land grab petition to the Deputy Collector (Revenue) North, Puducherry dt.06.12.2017 against Tmt. S. Gayathiri and Thiru. S.K. Khuseladoss and there is a dual claim on the said property and the matter is Sub Judge and to be decided by the competent Civil Court. As the veracity could not established, the temporary power connection was not disconnected so as to maintain status quo.
5. Meanwhile Thiru. P. Govindarajalow has filed a petition with the Hon'ble CGRF under C.C. No.21/2018. Dt.08.06.2018 seeking for disconnection of the temporary power supply and the Orders were issued by the Hon'ble forum dt.20.06.2018 that the "the Respondents are directed to disconnect the temporary service connection on expiry of the temporary connection period and the permanent service connection shall not be extended till the disposal of the O.S.No. 192/2013 on the file of the Hon'ble Principal District Munsif at Puducherry".
6. Accordingly the temporary power supply was disconnected on 13/11/2018.
7. Aggrieved by the above action of the department, Tmt.S. Gayathiri, W/o K. Selvam has filed a petition with the Hon'ble CGRF vide C.C. No.49/2018, dt. 26/11/2018 seeking reconnection of the temporary power supply and the Orders were issued by the Hon'ble Forum dt. 28.02.2019 that "As per the Electricity Act, 2003 and Joint Electricity Regulatory Commission supply code the owner or occupant is eligible for getting power connection. Since, the ownership issue is under dispute and it has to be decided by the Hon'ble Court, the Forum is now considering on the complainant status as occupant. The definition of occupant is given in JERC Supply Code is reproduced "Occupier mean the owner or person in occupation of the premises where electrical energy is used or proposed to be used". Since the Complainant is in possession of the property and satisfies the definition of the occupier Tmt. Gayathiri the complainant is eligible for getting power connection in the status of occupant. Effecting of power connection will not give


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her any right of ownership rights which are to be decided by the Hon'ble Court. Hence this Forum directs the Electricity Department to effect service connection to the Complainant in the status as an occupant. The Forum also directs the Electricity Department to take action based on the Orders of the Hon'ble Court when issued".

8. Accordingly the temporary power supply was reconnected on 21/03/2019.
9. Aggrieved with the order of the CGRF passed on 28/02/2019, the complainant filed appeal vide No.112/2019 before the Ombudsman, JERC, New Delhi.
10. Based on the above facts, I respectfully submit that, issue of orders by the Hon'ble Principal District Munsif at Puducherry, on the ownership, this Department will comply in true spirit.

C. Consumer Grievances Redressal Forum (CGRF):

Consumer Grievances Redressal Forum, Puducherry in its order dated 20/02/2019 in C.C. No.49/2018 has decided as under: -

1. A complaint has been received from Thiru S.K. Kucheladoss S/o Suuburaya Reddy, Power of Attorney of Tmt. S. Gayathri, W/o Thiru Selvam No.53, Sri Puthukarumariamman Koil 2nd Street, Sundaramurthy Nagar, Saram, Puducherry on 26/11/2018 with a prayer to direct the Electricity Department, Puducherry to restore temporary service connection for his house plot which was disconnected by the Department.
2. The Complainant in the petition has submitted that he had obtained a temporary service connection in Plot No.72 of R.S. No.164/1 R.S. No.164/1A Cad. No1231 3/3 part located in the Saram Revenue Village on 14.11.2017 for construction of a house in the said plot. But the service connection on 13.11.2018 by the Assistant Engineer, Lawspet O&M, Electricity Department without assigning any reason. Tmt. S. Gayathiri had also applied for extension of the temporary service connection in time. The Complainant has submitted several documents in support of her claim over the plot.
3. The complaint has been registered as C.C. No.49/2018 and notices have been served to the Respondents on 05.12.2018 calling for reply by 17.12.2018. A copy of the notice was also sent to Thiru Govindarajalou who was the complainant in C.C. No.21/2018 for a reply also. The reply from the Respondents has been received on 21/12/2018 and the case was posted for hearing on 09/01/2019.


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4. The Respondents in the reply have submitted that, based on the objection received from Thiru Govindarajalu, the Department referred the matter to the Tahsildar, Oulgaret, for opinion and the Tehsildar had informed that the ownership issue can be settled by Hon'ble Civil Court since the case is pending in the Court. Thiru Govindarajalu had filed a case in this Forum in C.C.No.21/2018 and obtained orders on 20.06.2018 wherein this Forum had directed the Department to disconnect the temporary power supply on expiry of the temporary connection period. Accordingly, the Department had disconnected the power supply on 13.11.2018.
5. The Respondents and the Complainant have attended the hearing held on 09.01.2019. During the hearing Thiru Govindarajalu, had submitted some documents in proof of his claim for objection for the temporary service connection in the said plot. In the reply Thiru Govindarajalu had mentioned that the O.S. No.192/13 filed before Hon'ble Principal District Munsif Court for grant of permanent injunction against Thiru S.K. Kucheeladoss and from restraining them from disturbing from peaceful possession of their property. He had further informed that there was no prohibitory Order or injunction granted by the Hon'ble Court.
6. During the hearing Thiru S.K. Kucheeladoss power of attorney of Tmt. Gayathiri had informed that Thiru Gayathiri had been sanctioned a grant of Rs.2 lakhs for construction of house under Pradhan Mantri Awas Yojana (PMAY) on verification of the same documents and the house construction could not be proceeded with, as there is no power connection and he had further submitted that the first instalment of Rs.70,000/- had already been received by Tmt. Gayathiri and restoration of power supply will enable her to complete the house under the Government of India Scheme.
7. OBSERVATION: it is observed that the Electricity Department, had disconnected the power based on the Orders of this Forum dated 20.06.2018 in C.C. No.21/2018. The Complaint was preferred by Thiru govindarajalu and the Forum had not called for any remarks from Tmt. Gayathiri in whose name the temporary power supply was effected and who is in the possession of the property. The Forum had further observed that based on the complaint given by Thiru Govindarajalu, the Assistant Engineer, Lawspet O&M, had referred the matter to the Tahsildar Oulgaret who had informed the Asst. Engineer on 03.01.2018 that they cannot decide anything on the owner issue as the case is pending in Hon'ble Court and ownership issue has to be settled by the Hon'ble Court. Based on the reply of the Tahsildar, the Assistant Engineer, Lawspet had informed Thiru Govindarajalu on 05.01.2018, who has requested for disconnection of temporary supply that the petition will be entertained only after obtaining of judgment copy of the Court in the land dispute between Tmt. Gayathiri and Thiru Govindarajalu. But this Forum observes now that, though the hearing in C.C.21/2018 was held on 08.06.2018 and

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Orders issued on 20/06/2018, the Assistant Engineer, Lawspet had failed to inform the existence of those letters and correspondences to this Forum. For the reason for not informing the facts will have to be explained by the Assistant Engineer, Lawspet. Since certain important facts relating to the case have been hidden and Tmt. Gayathiri was not given any opportunity to explain her position. The Forum now feels that it has to reconsider its own Order in C.C.21/2018. The present Complainant Thiru S.K. Kucheeladoss have now produced certain documents including the sanction of Rs.2 lakhs granted by Pradhan Mantri Awas Yojana (PMAY). Since, PMAY is a scheme with an object to provide home to the homeless people and the authority concerned must have sanctioned this grant after careful examination of the ownership documents. The land under dispute is still under the possession of Tmt. Gayathiri. In view of the reasons stated above, the Forum revises its Order dated 20.06.2018 in C.C. 21/2018 and issue the following Order.

ORDER

8. As per the Electricity Act 2003 and Joint Electricity Regulatory Commission supply code the owner or occupant is eligible for getting power connection. Since the ownership issue is under dispute and it has to be decided by the Hon'ble Court, the Forum is now considering on the complainant status as occupant. The definition of occupant is given in JERC Supply Code is reproduced below:

"Occupier mean the owner or person in occupation of the premises where electrical energy is used or proposed to be used."

Since, the Complainant is in possession of the property and satisfies the definition of the occupier the complainant is eligible for getting power connection in the status of occupant. Effecting of power connection will not give her any right of ownership rights which are to be decided by the Hon'ble Court. Hence this Forum directs the Electricity Department, to effect service connection to the Complainant in the status as an occupant. The Forum also directs the Electricity Department to take action based on the Orders of the Hon'ble Court when issued.

9. Thus the Complaint is allowed.

D. Written Submission: - Further a written submission has also been filed by the Appellant in respect to the reply of the Respondent by his letter dt. 03.06.2019.

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E. Discussions during the Hearing: -

1. Appellant(s): The appellant submitted that he apprehended that the unlawful occupier is likely to use the connection to show the ownership of premises. Further the piece of land-premises are vacant & no electricity can be used.
2. Respondent(s): The respondent submitted that temporary connection has been provided as per provisions of Supply Code, 2018 being occupier and as per directions of CGRF.

F. Analysis & Decision:

The case has been examined in view of various provisions of Electricity act, 2003 and Supply code, 2018 as detailed herein under:


1. Section 43 of Electricity Act, 2003 provides:

(Duty to supply on request): --- (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 premises, within one month after receipt of the application requiring such supply:

2. Clause 5.30 of Joint Electricity Regulatory Commission for the State of Goa and UTs (Electricity Supply Code) Regulations 2018” (hereinafter referred to as ‘the Supply Code 2018’) provides as under:

Any of the following documents shall be considered as acceptable proof of ownership or occupancy of premises:

- (1) Copy of the registered sale deed or lease deed or rent agreement and in the case of agricultural connections, a copy of khasra / khatauni / khata nakal;*
- (2) Registered General Power of Attorney;*
- (3) Municipal/Panchayat tax receipt or Demand notice or any other related document;*
- (4) Letter of allotment;*


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(5) Copy of the house registration certificate issued by the Panchayat/ownership certificate issued by Revenue Authorities;

(6) Any other ownership related document issued by local Government Authority.

(7) An applicant who is not an owner but an occupier of the premises shall, along with any one of the documents listed at (1) to (6) above, also furnish a No Objection Certificate from owner of the premises:

Provided that where an applicant, who is lawful occupier of the premises, is a tenant or a leaseholder and is unable to produce the No Objection Certificate from owner for obtaining a connection, a separate Indemnity Bond shall be executed in favour of the Distribution Licensee in the form prescribed by the Distribution Licensee.

(8) For bonafide consumers residing in JJ clusters or in other areas with no specific municipal address, the Licensee may accept either ration card or electoral identity card mandatorily having the same address as a proof of occupancy of the premises only for the purpose of releasing electricity connection and not for any other purpose:

Provided further that the electricity bill shall be only for electricity supply to the premises occupied by the consumer and shall not be treated as having rights or title over the premises.

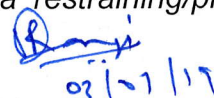
3. Annexure-1 (Application form- New Connection) of the Supply Code 2018 provides the following declarations to be given by the applicant: -

.....

e) I/We further agree that the connection given to me/us is only for availing electricity during my occupancy and shall not be used in any way to show ownership of premises.

4. Clause 5.19 of the Supply Code 2018 provides:

Connection to any applicant residing in unauthorized colonies/areas or disputed property shall not be granted where a restraining/prohibition order has been

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issued by any Indian court and/or a restraining/prohibition order has been issued by any competent authority.

5. In view of the above, it is clarified that:

- i) The said temporary connection shall only be for enjoyment of Electricity by the Occupier & in no way affect the right of ownership as apprehended by the Appellant.
- ii) The Electricity bill/connection in no way whatsoever affect the right of parties in OS. No. 192/2013 pending before the Learned Principal district Munsif, Puducherry or any other subsequent litigations in this regard.
- iii) So, the Court of Learned Principal Munsif, Puducherry may only be competent to decide the lawful occupancy on the said premises.

6. Further, as no restraining order has been issued by any Indian Court not to give connection to said premises and the connection can't be used in any way to show ownership of the premises, the temporary connection to premises may be allowed to continue subject to other provisions of law and timely payment of electricity dues.

The Appeal stands disposed-off accordingly.



(Rajesh Dangi)
Electricity Ombudsman
03.07.2019

To,

1. Sh. Thiru. P. Govindarajalou, No. 10, 1st Floor, 22nd Cross, Avvai Nagar, Lawspet , Puducherry.
2. The Superintending Engineer, Electricity Department, 137, Netaji Subhash Chandra Bose Salai, Puduchery-605 001.

Copies to: -

1. Chairman, CGRF, Electricity Department, Puducherry.
2. Sh. Arvind Kumar, Sr. Assistant, for uploading the order on JERC website.