



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. S. Devarajan, Electricity Ombudsman

A.P. No. 2 of 2018

Thiru. A. Maruthai Veeran,
Gengaiyur,
Ayyalur Post,
Vedasandur Tk,
Dindigul – 624 801.
Cell No.9486302831.

. Appellant
(Thiru. A. Maruthaiveeran)

Vs

1) The Executive Engineer,
Dindigul South Division,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Meenakshi Nayakkanpatti Post,
Dindigul 624 002.

2) The Assistant Executive Engineer,
Vadamadurai,
Dindigul Electricity Distribution Circle,
TANGEDCO,
110 KV SS Complex, Trichy Main Road,
Dindigul – 624 802.

. Respondents
(Tmt. Helen Clemen Jeya, AAO/South,
Revenue Branch/Dindigul)

Date of hearing: 16.05.2018

Date of order : 5.7.2018

1. The Appeal Petition dt. 12.1.2018 filed by Thiru. A. Maruthai Veeran, Gengaiyur, Ayyalur Post, Vedasandur Tk, Dindigul – 624 801. was registered as Appeal Petition No. 2 of 2018. The above appeal petition came up for hearing before the Electricity Ombudsman on 16.5.2018. Upon perusing the Appeal Petition, counter affidavit and written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order;

Order

2. In the appeal petition, the Appellant prayed to cancel the name transfer effected from Thiru.Palanivel Pillai to Thiru.A. Kannaiah in SC No.229-011-190.

3. A copy of the above appeal petition was forwarded to the Respondents for furnishing their counter vide letter dt.02.02.2018.

4. The Executive Engineer, Dindigul Electricity Distribution Circle has furnished the counter dt.19.02.2018.

5. To enable the Appellant and the Respondents to putforth their arguments in person, a hearing was proposed on 18.04.2018. Further, as per the impleaded party's request, the above hearing was postponed to 16.05.2018.

6. On 16.05.2018, Thiru. A. Maruthai Veeran, the Appellant herein has attended the hearing and putforth his arguments. Tmt. Helen Clemen Jeya, Assistant Accounts Officer/South/Revenue Branch/Dindigul has attended the hearing on behalf of the respondents and putforth their arguments. The implead party Thiru.A.Kannaiah has not attended the hearing due to sudden demise of his son.

7. During the hearing Thiru. A. Maruthai Veeran has informed that Thiru. A. Kannaiah, the name transferee has produced land records fraudulently transferring the patta and the same was challenged by the appellant and the court case is pending in Civil Court, Veda sandur in O.S. No.308/2013.

8. The Repondents while submitting the counter affidavit have enclosed the Copy of O.S.No.308 of 2013 filed at District Civil Court/Veda sandur by Thiru.A.Kannaiah and Thiru.Vallinayagam against (1) Thiru.Maruthai Veeran (the appellant herein), (2)Thiru.Mookappillai and (3)Thiru.Senthil.

9. As there is a case pending on the same subject matter in the District Civil Court/Veda sandur, I would like to refer regulation 17(4) of the Regulations for CGRF and Electricity Ombudsman which is extracted below :

"17 (1) xxx xxx xxx

(2) xxx xxx xxx

(3) xxx xxx xxx

(4) no complaint to Electricity Ombudsman shall lie unless ;

(a) the complainant before making a complaint to the Electricity Ombudsman shall made a written representation to the forum of the licensee named in the complaint and either the forum has rejected the complaint or the complainant had not received any reply within a period of fifty days from date of filing of the grievance or the complainant is not satisfied with the reply given by the forum.

(b) The complaint is made within three months after cause of action has arisen.

(c) The complaint, which is not settled, is not in respect of the same subject, which was settled through the office of the Electricity Ombudsman in any previous proceedings whether received from the same complainant or along with one or more complainants or anyone or more of the parties concerned with the subject matter;

(d) The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court; and

(e) The complaint is not frivolous or vexatious in nature."

10. On a careful reading of the said regulation 17(4)(d), it is noted that the Electricity Ombudsman cannot entertain a petition if any proceeding before any Court is pending or decree or award or final order has already been passed by the competent Court on the same subject matter.

11. In order to analyse whether the Appellant's prayer in O.S.No.308 of 2013 in the District Civil Court/Vedasandur is on the same subject matter of the A.P.No.2 of 2018, we have to examine the prayers of both the cases. Hence, the prayers given in O.S.No.308 of 2013 and A.P.No.2 of 2018 are extracted below :

Prayer in O.S.No.308 of 2013 in the District Civil Court/Vedasandur :

“

மாவட்ட உரிமையியல் நீதிமன்றம், வேடசந்தூர்

O.S. No.308/2013

- | | | |
|----|-------------------|--------------|
| 1. | திரு. கண்ணையா, | |
| 2. | திரு. வள்ளிநாயகம் | வாதிகள் |

// எதிர் //

- | | | | |
|----|---------------------|---|-------------------|
| 1. | திரு. மருதைவீரன் | } | பிரதிவாதிகள் |
| 2. | திரு. மூக்கப்பிள்ளை | | |
| 3. | திரு. செந்தில் | | |

மேற்படி வாதிகள் தரப்பில் C.P.C Order VII RULE -1ன் படி பணிந்து சமர்ப்பிக்கும் பிராது

xxx xxx xxx

xxx xxx xxx

ஆகையால், சமூகம் கோர்ட்டார் அவர்கள் கிருபை செய்து,

a) தாவா சொத்து, கிணறு, ஆழ்துளை கிணறு மற்றும் மின் இணைப்பு 190 ஆகியவற்றை வாதிகள் அமைதியான முறையில் சுவாதீனம் அடைந்து அனுபவம் செய்து வருவதை பிரதிவாதிகளோ, அவர்களது வகை ஆட்களோ, அல்லது அவர்களது முகவர்களோ எவ்வித தடையோ, இடையூறோ செய்யக் கூடாதென ஒரு நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கும்படிக்கும்,

b) தாவா வழக்கின் செலவுத் தொகை வகையறாவை பிரதிவாதிகள் இந்த வாதிக்கு செலுத்தி வைக்கும்படிக்கும்,

c) தாவா வழக்கின் தன்மைக்கேற்றவாறு இதர பரிகாரங்கள் வழங்கி தீர்ப்பு செய்ய வேண்டுமாய் பணிவுடன் பிரார்த்திக்கப்படுகிறது.

xxx xxx xxx

xxx xxx xxx

சொத்து விவரம்

திண்டுக்கல் மாவட்டம், பழனி சப்டி, வேடசந்தூர் வட்ட, அய்யலூர் கிராமம், கெங்கையூரில் உள்ள,

1. சர்வே எண்.1621/2Fல் ஹெக்டர் 0.07.0, அதற்கு 17.29 செண்டு, அதில் அமைந்துள்ள கிணறு, அதில் பொருத்தப்பட்டுள்ள 5 HP மோட்டார், மின் இணைப்பு எண்.190 அதற்கு நான்குமால் :

வாதிகள் நிலத்திற்கு	... மேற்கு
பிரதிவாதிகள் நிலத்திற்கு	... கிழக்கு
ஓடைக்கு	... வடக்கு
வாதிகள் நிலத்திற்கு	... தெற்கு

சர்வே எண்.1621/2Gல் ஹெக்டர் 0.52.00 அதற்கு 1.29.67 செண்டும், அதில் அமைந்துள்ள கிணறும், அதற்கு நான்குமால் :

ஓடைக்கும்	... மேற்கு
ஆறுமுகம் மற்றும் பிரதிவாதிகள் நிலத்துக்கு	... கிழக்கு
ஓடைக்கு	... வடக்கு
அய்யலூரிலிருந்து அரசன் செட்டிபட்டி செல்லும் ரோட்டுக்கும்,	... தெற்கு

மேற்படி நிலத்தில் உள்ள வரி, வாய்க்கால் திட்டுத்திடல் மற்றும் குழாய் மூலம் தண்ணீர் பாய்ச்சுதல், ஆழ்துளை கிணற்றில் மின் இணைப்பு எண்.190 மூலம் மின்இணைப்பு கொடுத்து தண்ணீர் எடுத்துக் கொள்ளும் பாத்தியமும் கட்டுப்பட்டது.

Prayer in A.P.No.2 of 2018:

“ 1 The Name transfer was effected on 1.8.2013 in the name of A. Kannaiah for the agricultural service connection 229-011-190 omitting the joint owner A. Maruthaiveeran, the petitioner.

Original Owner : Late A.M. Palanivel Pillai
Grand father of A. Kannaiah, the name transferee.
Thiru. A. Maruthaiveeran, Petitioner, the joint owner.

2 When the name transfer was objected by the petitioner the Assistant Accounts Officer, Revenue branch, Dindigul O&M South division has stated that based on the data available in the computer system and the latest land records (patta etc) produced by the name transferee, the name transfer was effected.

3 Thiru. A. Kannaiah, the name transferee has produced land records fraudulently transferring the patta and the same was challenged by the petitioner and the court case is pending in Civil Court, Vedasandur in O.S. No.308/2013.

4 When the fact was pointed out in the petition addressed to the Executive Engineer and also stating that there may be a omission of my name in the data available now in the computer system. The EE has kept the name transfer order in abeyance on 28.11.2013 and has instructed the AAO to produce the original service connection docket containing application form, agreement, test report etc.,

5 The AAO has not produced the same stating that the same is not traceable. The EE without verifying the original records insisted me to produce the latest patta chitta of the well and land claiming ownership for consider my case. I have reported to the EE that the case is pending in the court and it is not possible to produce the records as demanded till the disposal of the case.

6 In the above situation all of a sudden the EE has rejected my petition and confirmed the name transfer effected in the name of Thiru. A. Kannaiah against the principle of natural justice. Further, the EE has not conducted any enquiry in spite of my request denying me the chance to produce available original land records. Even now my name is available in 'A' register of Ayyalur revenue village for the well survey No.1621/2F of service connection.”

12. Further in the written submission also, the appellant prayed to include his name in the SC No. 229-011-190 or requested to stay the name transfer effected in favour of Thiru.A.Kannaiah till disposal of the case which is pending in Civil Court, Vedasandur in O.S. No.308/2013.

13. On a careful reading of the above prayers, it is noted that there is a dispute over the ownership of the land and well in survey No.1621/2F where SC No. 229-011-190 is presently in service. As the subject matter of the appeal petition regarding ownership of the land and well in survey No.1621/2F where SC No. 229-011-190 lies connected is pending before the Civil Court, Vendasandur in O.S. No.308/2013, the matter is sub-judice and the Electricity Ombudsman cannot entertain the above petition for passing any order as per regulation 17(4)(d) of the Regulations for CGRF and Electricity Ombudsman. Hence, the above appeal petition No.2 of 2018 is treated as closed. No Costs.

14. With the above findings the AP. No. 2 of 2018 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

To

1) Thiru. A. Maruthai Veeran,
Gengaiyur,
Ayyalur Post,
Vendasandur Tk,
Dindigul – 624 801.

2) The Executive Engineer,
Dindigul South Division,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Meenakshi Nayakkanpatti Post,
Dindigul 624 002.

3) The Assistant Executive Engineer,
Vadamadurai,
Dindigul Electricity Distribution Circle,
TANGEDCO,
110 KV SS Complex, Trichy Main Road,
Dindigul – 624 802.

4) The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Meenakshi Nayakkanpatti Post,
Dindigul 624 002.

5) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai,
Chennai -600 002.

6) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmiipathy Salai,
Egmore,
Chennai – 600 008.

7) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmiipathy Salai,
Egmore,
Chennai – 600 008.