

D-716

# BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6<sup>th</sup> Floor, Mahalakshmi Chambers, M.G Road, Bangalore – 560 001

**Present: B.N.Krishnaiah**  
**Electricity Ombudsman**

**Case No.OMB/C/G-243/2016**

**Dated : 24.06.2016**

Smt.Lakshmi  
W/o late R.L.Chandrakumar,  
No.W-10, Industrial Area,  
Yadavagiri, Mysuru.

... Appellant

**(By Sri V.M.Prasad, Advocate)**

V/S

1. The Assistant Executive Engineer(EI),  
O&M, Sub-Division,  
Chamundeshwari Electricity Supply Corporation,  
V.V.Mohalla,  
Mysuru

**(Party in person)**

2. The Chairperson  
CGRF & Superintending Engineer,  
Chamundeshwari Electricity Supply Corporation  
Jodi Basaveshwara Road,  
Kuvempu Nagar, Mysuru

3. Smt.R.L.Jayalakshmi,  
w/o Mohankumar,  
Residing at Door No.6,  
Gokulam Road,  
Jayalakshmipuram,  
Mysuru

4. Sri R.L.Shivakumar,  
S/o R.N.Lingaiah,  
R/a No.2, Jayalakshmipuram,  
Mysuru.

... Respondents

(R-3 and 4 by Sri Jeevan Singh, Advocate)

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1. This is an appeal under clause 21.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the orders passed by CGRF, CESC, Mysuru (here in after referred to as the 2nd Respondent) dated 06.11.2015.

2. Comments were called vide letter dated 08.01.2016 from the respondent AEE and he has submitted the reply vide letter dated 06.02.2016.

The respondents 3 and 4 have filed their objections on 15.02.2016

3. Both the appellants and the 1<sup>st</sup> respondent were informed vide letter dated 14.03.2016 regarding availability of sub-section 20(1) of KERC (CGRF & Ombudsman) Regulations, 2004. However, they have not availed the benefit of the said provision.

4. The case of the appellant is as follows :

(a) Shed No.W-10 situated at Yadavagiri Industrial Area, Mysore was allotted in favour of her mother-in-law Smt.B.Nagamma w/o

R.N.Lingaiah by KIADB. The husband of Smt.Nagamma started an industry in the name and style Ravishankar Products;

- (b) After the marriage of appellant with R.L.Chaandrakumar s/o Nagamma and R.N.Lingaiah, misunderstanding arose in the family. Consequently as per an oral agreement Lingaiah gave the industrial site i.e. W-10, along with small shed to R.L.Chandrakumar and his wife i.e. the appellant. After securing the above said property the husband of the appellant has borrowed hand loans and further raised funds from his friends and erected 3 buildings in the above said property and started living there;
- (c) After the death of R.L.Chandrakumar (appellant's husband), the 3<sup>rd</sup> and 4<sup>th</sup> respondents, behind the back of the appellant obtained WILL and GIFT deed in their favour from Smt.B.Nagamma (Mother of Chandrakumar, R.L.Jayalakshmi and R.L.Shivakumar, and Mother-in-law of the appellant). The legality of the WILL and GIFT was questioned by one of the grandsons of R.L.Lingaiah in O.S.1693/2008 on the file of Hon'ble 2<sup>nd</sup> Additional Civil Judge (Senior Division), Mysore, for partition of all the properties of their family. When the said suit was pending the daughter of the appellant attained majority and she also filed an application to transpose her as one of the plaintiff in the said suit which was allowed by the Civil Court;
- (d) When the matter stood like, the respondents 3 and 4 on the guise of impugned WILL and GIFT got the Kahta in their favour in respect of the said property. After change of the Kata the respondents 3 and 4 had requested the CESC to disconnect the electricity supply to the

property and accordingly CESC has disconnected the electricity supply;

(e) The 1<sup>st</sup> respondent is not justified in changing the Katha (electricity) in favour of the 3<sup>rd</sup> and 4<sup>th</sup> respondents without appreciating the relevant facts and issues relating to joint family property;

(f) The 1<sup>st</sup> respondent has failed to appreciate that the appellant herein has made the payment of revenue to the CESC and she has let out some portion of the property in question for her livelihood. Due to the act of the 1<sup>st</sup> respondent by disconnecting the electricity the tenants in the let-out portion vacated the premises;

5. The AEE has filed his objections as follows :

(a) The respondents 3 and 4 made a requisition along with the Khata Certificates pertaining to the industrial sheds W-10/1 and W-10/2 for disconnection of electricity. After observing connected rules and norms, and since respondents had established their ownership, electricity to the industrial sheds W-10/1 and W-10/2 was disconnected;

(b) However, the electricity to the property W-10 was not disconnected.

6. Sri M.Jeevan Singh, the learned Advocate for the respondents 3 and 4 has submitted as follows :

(a) The appeal is not maintainable;

- (b) The appellant is a stranger to the schedule properties (Shed No.W-10/1 and W-10/2) and has no right authority or interest over the said property, and she is totally unknown person to the said properties;
- (c) The respondents 3 and 4 are the absolute owners of the schedule properties having obtained the same through Gift Deed executed by their mother Nagamma which are her (Nagamma's) self acquired properties;
- (d) The respondents 3 and 4 changed the Khata in their favour and after that approached the CESC and got the Khata of the electrical installation in their name;
- (e) The respondents 3 and 4 are paying tax to the Mysore City Corporation;
- (f) The alleged tenants in the said property is totally illegal and the lease deed of the tenants with the appellant Lakshmi is concocted and fabricated;
- (g) The respondents have filed the suit in O.S.428/2015 and O.S.429/2015 against the tenants for eviction and the same is pending on the file of the Principal First Civil Judge (Junior Division), Mysore. Whereas, in O.S.428/2015 filed against G.R.Shoeib, the plaintiff's evidence is already over. However, the defendant tenant G.R.Shoeib is avoiding to appear before the Court and also also M.R.Prakash in O.S.429/2015;
- (h) The said tenants M.r.Prakash and G.R.Shoeib, were misusing the power in the said premises and the CESC has sent notice to the

registered consumers i.e. the respondents to pay the damages/back billing amount;

(i) The appellant also filed Petitions No.3/2015, 4/2015 and 5/2015 seeking power connection, before the District Consumer Redressal Forum, Mysore, which were dismissed on 06.11.2015;

(j) The schedule properties W-10/1 and W-10/2 are separate properties and it is not the same property of W-10. W-10/1 and W-10/2 stands in the name of the respondents; and the appellant has no locus standi to claim any relief or order on the same properties;

(k) After disconnection of power supply, The appellant has approached Civil Court in O.S.475/2015, 625/2015 and 626/2015 seeking power connection and the suit are pending;

7. The Counsel for the appellant in his arguments reiterated the contentions in the appeal memo. The Counsel for the respondents 3 and 4 in his arguments reiterated the contentions made in the statement of objections.

8. From the above it is observed that during the life time of Nagamma, she has executed the gift deeds in respect of property W-10/1 and W-10/2 in favour of the respondents 3 and 4. Based on that, the respondents 3 and 4 have got the Khata changed in their favour from Mysore City Corporation. Consequently, they requested the AEE, CESC, for transfer of electrical installation in respect of W-10/1 and W-10/2. The AEE considered the request and has passed the order disconnecting the electricity connection to W-10/1 and W-10/2.

9. The electricity in respect of W-10, where the appellant is residing is not disconnected and power supply is ensured. Further, there is a suit in O.S.693 of 2008 pending on the file of the 2<sup>nd</sup> Additional Civil Judge (Senior Division), Mysore, for partition over all the properties, including W-10/1 and W-10/2. Further, the respondents 3 and 4 have also filed the original suits for eviction of the tenants alleged to have been inducted by the appellant claiming as the owner of W-10/1 and W-10/2 and the suits are pending and the tenants are not attending the Court.

10. The AEE has transferred the installation with respect to W-10/1 and W-10/2 in favour of the respondents 3 and 4 on the basis of a Valid Katha issued from Mysore City Corporation and disconnected the power supply with respect to W-10/1 and W-10/2, whereas no inconvenience is caused by disconnecting the power in respect of the property W-10. The action of the respondent AEE in disconnecting the electricity with respect to W-10/1 and W-10/2, does not suffer from any infirmities. No appropriate and lawful reasons are found to interfere with the order of the CGRF dated 06.11.2015. Hence, the following order.

### **ORDER**

The appeal is dismissed.

Sd/-

**(B.N. Krishnaiah)**  
**Electricity Ombudsman**

To :

1. Srii V.M.Prasad, Advocate, No.138/139, room No.8, Devisakamma Complex, Old Santhepet, Mysuru – 570 024

2. The Assistant Executive Engineer(EI), O&M, Sub-Division, Chamundeshwari Electricity Supply Corporation, V.V.Mohalla, Mysuru
3. Sri H.Jeevan Singh, Advocate, No.2802, 2<sup>nd</sup> Main, Jayanagar, Myhsuru – 570 014.
4. The Chairperson, CGRF & Superintending Engineer, Chamundeshwari Electricity Supply Corporation, Jodi Basaveshwara Road, Kuvempu Nagar, Mysuru
5. Managing Directors of ESCOMs.
6. PS to Hon. Chairman, KERC
7. PS to Hon. Member (A), KERC
8. PS to Hon. Member (M), KERC
9. PS to Secretary, KERC

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