

**Before the Karnataka Electricity Regulatory Commission, Bangalore**

**Dated this the 1<sup>st</sup> day of July 2004**

**Present**

- |                                  |          |                 |
|----------------------------------|----------|-----------------|
| <b>1. Sri. Philipose Matthai</b> | <b>-</b> | <b>Chairman</b> |
| <b>2. Sri. H.S. Subramanya</b>   | <b>-</b> | <b>Member</b>   |
| <b>3. Sri. S.D.Ukkali</b>        | <b>-</b> | <b>Member</b>   |

**Case Nos: OP - 3/2004 and OP - 4/2004**

**Between**

Mrs Sayeeda Banu w/o Mr. Anwar Sherieff  
natural guardian of Master Usman Sherieff and  
Master Saddam Sherieff ,  
#12/3, Clerke Road,  
Richards Town,  
Bangalore - 560 005

**Petitioner**

(By Mr. A. Mohd. Masihuddin, Adv.)

**and**

1. Managing Director,  
KPTCL,  
Cauvery Bhavan  
Bangalore

2. Managing Director,  
BESCOM  
K.R.Circle,  
Bangalore

3. The Asst. Executive Engineer, (Elec),  
BESCOM  
E-5, Sub Division,  
Bangalore - 560 005

**Respondents**

(By Sri. S.Sriranga Adv.)

The above Petitioner who claims to be the natural guardian of her two minor sons, Master Usman Sherieff and Master Saddam Sherieff, has filed these two petitions. Since the issues involved and the Respondents in these two cases are

common, for the sake of convenience, both these cases have been heard together and a common order is passed.

2. The Petitioner is aggrieved by the refusal of respondents to accord approval of transfer of installations in favour of her two sons and has filed these petitions under KER C (E S & D) Code, 2000-2001. The facts of these petitions, in brief, are as under: -

Mr. Anwar Sherieff s/o Late Jamaluddin made gift deeds in favour of his two minor sons Master Usman Sherieff and Master Saddam Sherieff and transferred certain properties in their favour. Mrs Sayeeda Banu mother of these children was named as their natural guardian in these gift deeds. The properties are said to have been accordingly transferred in the name of minor children with their mother as guardian in the records of Bangalore Mahanagar Palike. The gifted properties have two electrical installations bearing RR No.1EEH 7014 and RR No. 1EEH 7015. The Petitioner applied for transfer of these installations in the name of her minor children, by paying the necessary deposits. The concerned Junior Engineer of the Respondents inspected the premises and endorsed the transfer application. However, the Respondent No.3 refused to accord approval for the transfer on the ground that the minor children who are the owners of the properties have not made the application, but the mother has filed the application as natural guardian. He orally directed the Petitioner to wait till the children attain majority. It is contended that he refused to give an endorsement to that effect.

3. The Respondents have put in appearance and have filed detailed statement of objections. It is contended by the Respondents that the minors have no contracting capacity under S.11 of the Contract Act, and that the consumers of electricity have to enter into a contract with the supplier. It is further contended that the Petitioners are Muslims and that they are subjected to Muslim personal law in respect of matters like succession and guardianship. It is stated that as per Muslim law only the father or the father's father can become the natural guardian of the minors and mother cannot be natural guardian.

4. We have heard the learned Counsels of both sides in full. The learned Counsel for the Petitioner argued that the properties have already been alienated in favour of the minor children and the question of Muslim personal law coming in the way of entering into contract by the mother of minor children would never arise. He pointed out that the natural guardian is entering into contract and not the minors, and therefore there is no problem for the Respondents to transfer the installations on the application made by the Petitioner. He contended that the objections raised by the respondents are frivolous and are made to harass the Petitioners. The learned Counsel for the Respondents reiterated the points raised in their statement of objections and contended that mother of the minors cannot be their natural guardian in Muslim personal law and she has no right to contract on their behalf and such contract cannot be legally enforceable. He relied upon the decision of the Hon Supreme Court in the case *Meethiyan Sidhiqu v. Muhammed Kunju Pareeth Kutty* ((1996) 7 SCC 436) wherein it is held that in Muslim Law, mother is not a natural guardian and where she is not appointed as property guardian by competent court, sale of minor's property by her is void.

5. We have carefully considered the points raised by the learned Counsels. The only objection of the Respondents is that the mother of the Muslim minors cannot be their natural guardian and she is not the proper person to represent them. The Respondents are relying upon the case law cited in the previous paragraph. The Hon Supreme Court has held that the mother cannot be a natural guardian to alienate the property of a minor in case where Muslim Law is applicable. In the instant case, there is no question of alienation of minors' property, but it is the case of representing the interest of the minors as consumer. Therefore, the case law cited by the Respondents is not at all applicable in the instant case and the Respondents cannot decline to entertain the mother of the minors in the capacity of their representative as consumer of electricity. The definition of Consumer in the laws of electricity is wide enough to include such representation. It is very strange that when the properties have already been

alienated in favour of minors with the Petitioner as their natural guardian, the service provider to the property is raising the question of legal rights of the natural guardian. The objection raised by the Respondents is very flimsy and without any basis which would serve only the purpose of harassing the applicants.

6. In view of the above, we allow these petitions and direct the respondents to take immediate action to transfer the installations in favour of the Petitioner within one week from the date of receipt of this order.

7. The Petitions are **allowed with cost**. The advocates fee is Rs. 1000/- in each case. Ordered accordingly.

**(Philipose Matthai)**

**(H.S.Subramanya)**

**(S.D.Ukkali)**