

**BEFORE THE ELECTRICITY OMBUDSMAN**

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)  
Vasanthanagar, Bengaluru-560052.

Present: S.S Pattanashetti,  
Electricity Ombudsman,  
**Case No. OMB/H/G-353/2019**  
**Dated 11/11/2019**

In the matter of

Sri Sabastian Francis Lima,  
S/o Francis Lima,  
Old Fish Market Road,  
Kumta - 581343  
Uttara Kannada District

Represented by:

Smt. Sarita W/o Sabastian Lima,  
Old Fish Market Road,  
Kumta - 581343  
Uttara Kannada District

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Vs

Appellant

- 1) The Assistant Executive Engineer (Electrical),  
Uttara Kannada District  
O & M Sub division, HESCOM,  
Kumta – 581343.
- 2) Chairman, Consumer Grievance Redressal Forum/(CGRF)  
Uttara Kannada District,  
Superintending Engineer,  
O & M Circle, HESCOM,  
Building #258/2, Ayyappa Nagar,  
Hubli Road,  
Sirsi – 58140.

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Respondents

1) This Appeal/Complaint is filed before this Authority, by Sri Sabastian Francis Lima, (Appellant/Complainant), under the provisions of Clause 21.2 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004, in Form 'B' challenging the order No. ಶಿ/ಗ್ರಾಕುಂಕೂನಿವೇ/ಪ್ರ.ಸಂ.25/2019-20/ಸಿವೈಎಸ್-43 dated 27-06-2019 of CGRF, Uttara Kannada District, by inter-alia seeking the following reliefs:

- a) To transfer meter installations RR Account ID No. 0917812301, 6686501000 & 7421020923 from father Sri Francis Lima to son Sri Sabastian Francis Lima and reconnect power supply to the same.
- b) To provide connection to new installation for Meter RR ID No. 6668010871.

2) Brief facts which are relevant to the case on hand as stated by the Appellant/Complainant are as follows:

Survey No. 465 I measuring 0.3.0.0.5 is in the name of Sri. Francis Lima who is the owner of the property. This property has been inherited by him from his ancestors. There existed only one RCC building in this property. After the marriage of the Appellant/Complainant's brother the Appellant/Complainant constructed another house consisting of 2 rooms adjoining the present house. The Appellant/Complainant started living with his family in this newly constructed house. This property has 2 electrical meters bearing No. KL6056 and ID No. 6686501000. KL6056 is being used by the father of the Appellant/Complainant, and 6686501000 is being used by the Appellant/Complainant. The Appellant/ Complainant says that the meter being used by him is taken with his own expenditure, however, as the site and the record of rights

for the house were in the name of his father Sri Francis Lima, a situation arose where the meter had to be taken in the name of his father only. It is the claim of the Appellant/Complainant that above the existing property in the ground floor 2 houses were constructed by him with his expenditure in the name of his father. The newly built houses are having electrical meter Nos. 0917812301 and 7421020923. The newly constructed houses and the 2 new meters are in the name of the father of Appellant/Complainant. Town Municipal Council (TMC) of Kumta has given municipal house Nos. E-232A and E-232B, to this building. Expenditure for the construction of the 2 new houses and taking 2 new electrical meters for them was borne by the Appellant/Complainant. Only the title was in the name of his father Sri Francis Lima.

Sri Francis Lima father of the Appellant/Complainant on 04-06-2013 gifted to the Appellant/Complainant through a gift deed 0.0.0.8 Aane (ಆಣೆ) land and first floor of house Nos. E-232/A and E-232/B out of Kumta Survey No. 465 I measuring 0.3.0.0.5. This gift deed has been registered on 04-06-2013 in the office of the Sub-Registrar Kumta. The name of the Appellant/Complainant has been registered in the Revenue records of Kumta Village. The Appellant/Complainant has been paying property tax for the property bearing No. E-232/B. Election Voter ID card, Aadhar card and also Ration card which is in the name of the Appellant/Complainant and his family is submitted as proof of residence in House No E-232. The Appellant/Complainant has extended construction in the house bearing No. E-232/B, in the course of time. He applied to TMC, Kumta for getting a NOC for taking power connection to the extended house. TMC Kumta has issued a NOC to

the Appellant/Complainant. The Appellant/Complainant applied to HESCOM on 27-02-2019 for getting power connection under LT 2(A) with a demand of 2 KWs Power. The Section Officer, HESCOM, inspected the premises and prepared an estimate and sanctioned 2 KWs power on 27-02-2019 under Self Execution Scheme. Accordingly, the Appellant/ Complainant got the work executed through Licensed Electrical Contractor (LEC) and submitted all the papers to HESCOM Office along with Security Deposit of Rs 1030/-. An application for supply of electricity was submitted on 06-05-2019 along with Indemnity Bond to the Assistant Executive Engineer (Ele.), O & M, Sub Division, HESCOM, Kumta, for the Meter bearing No. ID 6668010871. The Appellant/Complainant says he did not receive any response from the AEE so far. As the AEE did not take any action to give power connection to Meter bearing ID No. 668010871 an application/complaint in Form 'A' was submitted on 04-06-2019 to CGRF, Uttara Kannada District, Sirsi. In the order dated 18-06-2019 and 27-06-2019 the CGRF, Uttara Kannada District, has ordered that in the gift deed only the buildings etc., have been mentioned and no mention has been made regarding transfer of electrical installations, and that as per regulations the Appellant/Complainant cannot take a sperate electrical meter. Challenging the order of the CGRF, Uttara Kannada District, the Appellant/Complainant has prayed for cancellation of the order of CGRF dated 18-06-2019 and 27-06-2019, and also prayed for giving new power connection to ID No. 6668010871 for domestic consumption.

- 3) Both the parties were informed vide this office letter No. OMB/H/G-353/2019/D-1332 dated 01-08-2019, regarding availability

of provision in Sub-Regulation 1 of Regulation 20 of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement through conciliation and mediation and to appear before this Authority on 21-08-2019. However, they have not availed the benefit of the said provision. The case was listed for hearing on 21-08-2019 and 05-09-2019.

- 4) The Respondent-1/AEE has filed his parawise replies dated 16-08-2019. He has stated that electrical domestic installations bearing Nos. 0917812301, 7421020923 and 6686501000, stand in the name of Sri Francis Lima the father of the Appellant/Complainant. The Appellant/Complainant has submitted application on 27-02-2019 seeking electric power connection to building bearing No. 232/B. His office has sanctioned 2 KW power supply on 27-02-2019 with Account ID 6668010871. The consumer has also paid Initial Security Deposit of Rs. 1030/- and registration fee of Rs. 50/-. At the time of giving this power sanction, Sri Francis Lima raised strong objection alleging that his son Sri Sabastian Lima is living abroad and somebody has forged his signature and obtained NOC from TMC Kumta for supply of electricity to building bearing No. 232/B, and hence requested for cancellation of the electrical supply sanction given to Account ID 6668010871. As a result of this Sri Sabastian Lima has not been given power supply connection for building bearing No. E-232/B. On 22-05-2019 Sri Sabastian Lima has applied for transfer of electrical installations bearing Meter ID Nos. 0917812301, 7421020923 and 6686501000 from his father's name to his name. When Sri Francis Lima was issued notice regarding the transfer application received from Sri Sabastian Lima, Sri Francis Lima raised objections to this and hence the transfer of electrical installations in the name of Sri Sabastian Lima

has not taken place. Sri Francis Lima on 24-04-2019 has submitted a request for temporary disconnection of power supply to installations bearing Meter Nos. 0917812301, 7421020923 and 6686501000. Accordingly, on 28-05-2019 power supply has been temporarily disconnected. On 29-05-2019 Sri Sabastian Lima has applied for 4 KW temporary power connection. Temporary power connection has been sanctioned on 29-05-2019 for a period of 28 days with Meter ID No. 0534054938. Sri Sabastian Lima on 04-06-2019 has submitted a complaint in Form 'A' to the CGRF Uttara Kannada District, alleging delay in transferring the 3 installations bearing Meter ID Nos. 0917812301, 7421020923 and 6686501000. In the CGRF order dated 11-06-2019, it is stated that even though Sri Sabastian Lima has become the owner of the property bearing No 465 I through a gift deed dated 04-06-2013, the 3 electrical installations have not been mentioned in the gift deed. The 3 electrical installations still stand in the name of his father Sri Francis Lima. It was ordered for transfer of installations to the name of Sri Sabastian Lima after taking the consent of his father Sri Francis Lima. TMC Kumta, on 05-07-2019 issued NOC to Sri Sabastian Lima, in view of the fact that his name was entered as owner in the records of TMC Kumta for property bearing No. 232/A and 232/B. In view of the NOC obtained by Sri Sabastian Lima from TMC Kumta for transfer of 3 electrical installations a notice was issued to Sri Francis Lima saying that his name would be permanently removed as owner of electrical installations of Meter ID Nos 0917812301, 7421020923 and 6686501000. Sri Sabastian Lima on 11-07-2019 submitted a complaint to Superintendent of Police, Lokayukta, Karwar, regarding temporary disconnection to the 3

electrical installations. A detailed report has been submitted to the Superintendent of Police Lokayukta, Karwar by the Respondent-1/AEE. In response to the notice dated 24-07-2019 issued by HESCOM for permanent cancellation of power supply in his name, as per the NOC cancellation issued by TMC Kumta, the said consumer has filed Original Suit (OS) No. 74/2019 requesting not to cancel the electrical installations in the name of Sri Francis Lima.

- 5) Perused the appeal memo filed by the Appellant/Complainant, the parawise replies filled by Respondent-1/AEE, the various documents and submissions made by both the contesting parties. Clause 36 of Conditions of Supply of Electrical of Distributions Licensee in the State of Karnataka (COS), deals with transfer of installation (change in the name of Consumer). The procedure prescribed for change in the name of consumer is clearly described in Clause 36.01. It is an admitted fact that Sri Sabastian Lima and Sri Francis Lima are son and father in relationship. The property bearing Survey No. 465 I measuring 0.3.0.0.5 belongs to Sri Francis Lima. This property is said to be an ancestral property of the family. Sri Francis Lima on 04-06-2013 gifted to his son Sabastian Lima 0.0.0.8 extent of NA land and first floor of the RCC power supplied building situated there in bearing Kumta Municipality "E" ward building No. 232/A and 232/B area 364 Sq. Ft. In pursuance to this gift deed Sri Sabastian Lima has got his name registered in the revenue records of Kumta Village. He claims to be paying property tax for the property bearing No. E-232/B. When the Appellant/Complainant Sri Sabastian Lima applied to TMC Kumta for issue of NOC for transfer of 3 electrical installations standing in the name of his father Sri Francis Lima, the TMC Kumta issued NOC to

Sri Sabastian Lima cancelling the earlier NOC given to his father Sri Francis Lima. Enclosing the NOC issued by TMC Kumta when Sri Sabastian Lima Appellant/Complainant applied to HESCOM for transfer of the 3 installations with Meter ID Nos. 0917812301, 7421020923 and 6686501000, the HESCOM authorities should have simply followed the procedure enunciated in Clause 36.01 of Conditions of Supply of Electricity (COS). When a property is gifted, the attachments and fixtures like water supply meters, electrical meters are also gifted automatically. There is no need to mention about the attachments and fixtures separately in the gift deed. Hence, the CGRF Uttara Kannada District, erred in coming to a decision that though the 1<sup>st</sup> floor portion of the building has been gifted in the name of Sri Sabastian Lima the electrical meters are still in the name of Sri Francis Lima, and his consent should be obtained for effecting transfer of electrical installations. Even otherwise, in the gift deed it is mentioned that all the things permanently attached thereto or standing thereon and all the liberties, privileges easements and advantages appurtenant thereto are transferred to the Donee. The extract from the gift deed is reproduced here below:

“NOW THIS DEED WITNESSETH that the Donor without any monetary consideration natural love and affection which the Donor bears to the Donee hereby grant and transfer by way of gift undivided interest of the schedule proper i.e. area 0-0-8 and upper portion i.e. building No: ‘E’ ward No: 232A and 232B (1<sup>st</sup> floor) of the said building situated at Sy. No:465‘I’ area 0-3-0.5 **together with all the things permanently attached thereto or standing thereon and all the liberties, privileges easements and advantages appurtenant**



**thereto and all the estates right title interest use inheritance possession benefits claims and demand whatsoever of the Donor TO HAVE AND TO HOLD the same unto the use of the Donee absolutely** but subject to the payment of all taxes rates assessments dues and duties now and here after chargeable thereon to the Government or local authorities.”

The gift document has not been withdrawn or cancelled by the Donor and got nullified. The mutation register entry from Sri Francis Lima to Sri Sabastian Lima to an extent of 0.0.0.8 has not been challenged by anybody. The Appellant/ Complainant has been paying the property tax as seen from the documents submitted by him. The address in the Aadhar Card and Ration card of the Appellant/ Complainant and his wife Smt. Sarita is shown as 232, Old Fish Market, Kumta, which is the property gifted to Appellant/Complainant by his father Sri Francis Lima. The gift deed made by Sri Francis Lima has been challenged in Civil Court in OS No. No. 74/2019 by his another son Sri Albert Lima and daughter Smt. Presilla Jone, on 15-07-2019. However, Civil Court has not passed any order in this OS No. In his letter dated 07-08-2019 to Respondent-1/AEE Sri Francis Lima has said that he has not transferred the buildings 232/A and 232/B to his son Sri Sabastian Lima. However, he has not taken any action to cancel or nullify his gift deed dated 04-06-2013. In the objections dated 07-03-2019 issued by Sri Francis Lima to the AEE, HESCOM i.e., Respondent-1/AEE it is alleged that his son Sri Sabastian Lima is staying abroad and his signature has been forged and hence the sanction of electrical installation should be cancelled. Signature of a person staying abroad may be got by sending the required documents through post/courier.

The person signing the document need not necessarily be staying where the document is presented. The person who can say that his signature is forged is the person himself. When there is no complaint from the signatory then the signature has to be held as valid. Sri Francis Lima has not been able to submit any document from competent authority (Forensic Laboratory or any other authority) regarding the alleged forgery of signature of his son Sri Sabastian Lima.

6) In view of the foregoing paras the following order:

**No. OMB/H/G-353/2019/D-1374**

**Dated 11-11-2019**

**O R D E R**

1. The order of CGRF Uttara Kannada, bearing No. ಶಿ/ಗ್ರಾಕುಂಕೊನಿವೇ/ಪ್ರ.ಸಂ.25/2019-20/ಸಿವೈಎಸ್-43 dated 27-06-2019, is set aside.
2. The Appeal/Complaint is allowed.
3. The Respondent-1/AEE is directed:
  - a) To transfer the installation bearing Meter ID Nos. 0917812301, 7421020923 and 6686501000 from Sri Francis Lima to Sri Sabastian Lima and reconnect power supply to the installations.
  - b) To provide connection to the new installation for Meter ID No. 6668010871.

Sd/-  
(S.S Pattanashetti)  
Electricity Ombudsman.

- 1) Sri Sabastian Francis Lima,  
S/o Francis Lima,  
Old Fish Market Road,  
Kumta - 581343  
Uttara Kannada District
- 2) The Assistant Executive Engineer (Electrical),  
Uttara Kannada District  
O & M Sub division, HESCOM,  
Kumta – 581343.
- 3) Chairman, Consumer Grievance Redressal Forum/(CGRF)  
Uttara Kannada District,  
Superintending Engineer,  
O & M Circle, HESCOM,  
Building #258/2, Ayyappa Nagar,  
Hubli Road,  
Sirsi – 58140.
- 4) PS to Hon'ble Chairman, KERC
- 5) PS to Hon'ble Member (M), KERC
- 6) PS to Hon'ble Member (R), KERC
- 7) PA to Secretary, KERC.
- 8) Chairperson of all CGRF's in the State.