

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/113/2015

(Present: V.V. Sathyarajan)

Dated: 20<sup>th</sup> August 2015

Appellant : Smt. Prema E.  
Elaveetil House,  
Kuniyil Parambu  
Beyepore North P.O.,  
Kozhikode.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
Kallai, KSE Board Ltd,  
Kozhikode.

**ORDER**

**Background of the case:**

The appellant is a domestic consumer with consumer no. 19913 under Electrical Section, Beyepore. The appellant alleges that the respondent had given service connection to a consumer by name Kozhikkal Thilakan from the LT line passing through the pathway owned by the appellant and her brother, without their consent. This electric connection was given from electric Post No. CE 30/3 standing in the pathway. Though the appellant raised objection against giving connection from this post, that was not considered by the respondent and effected the service. Aggrieved by this, the appellant approached the CGRF, Kozhikode with a petition in OP No. 70/2014-15 which was dismissed on 3-3-2015 holding that the petition is frivolous and hence untenable in the eye of the law. Not satisfied with the above order, the appellant filed this appeal petition before this Authority on 14-03-2015.

**Arguments of the appellant:**

The gist of the complaint of the appellant is that the respondent has given electricity connection to one Kozhikkal Thilakan by drawing an electric line through the property owned by the appellant and her brother Rajan. She had raised objection in

effecting service from the electric post standing in the pathway owned by her. But the respondent effected the service connection without the consent of the appellant and her brother. She complained against the said action before the Assistant Executive Engineer, Vellayil, KSEB, Kozhikode, but no action has been taken in that complaint. Hence she prays to dismantle the connection given to Sri Kozhikkal Thilakan drawn through the property owned by her.

### **Arguments of the respondent:**

The respondent has put forward the following arguments in the counter statement as mentioned below.

It is admitted that electric connection to Sri. Rajathilakan was given on 20-09-2014 as consumer no. 28970. The electric Post CE 30/3 is situated in a pathway having 8 feet width which is being used by the inhabitants of four families. The post is standing in the left side of the pathway near to the house of Sri Raja Thilakan and the electric posts bearing Nos. CE 30/4, CE 30/4 A, CF 30/5 are also situated in the same pathway. The respondent argues that electric Post No. CE 30/3 is in the public way and there is no property crossing and hence the consent of the appellant is not required. On verification, it is found that this is the only possible way to give connection to applicant. The connection was not given from CE 30/5 as alleged, but the same was given from CE 30/3. The contention of the respondent is that by giving the above service connection, the appellant has not suffered any difficulties or loss.

### **Analysis and findings**

The hearing of the case was conducted on 17-06-2015 in the CGRF Court Hall, Kozhikode and Smt. E. Prema appeared for the appellant's side and Sri. Prasad Kuttan, Assistant Executive Engineer, Electrical Sub Division, Kallai and Sri Ganesh Kumar A.V., Assistant Engineer, Electrical Section, Beypore appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority came to the following conclusions leading to the decision.

On going through the documents and the arguments of both parties this Authority had decided to appoint a Commission for conducting site inspection and to obtain a detailed report for taking further steps in the matter. So, this Authority directed the Deputy Chief Engineer, Electrical Circle, Kozhikode to depute an Assistant Executive Engineer to inspect the site and report whether there is any property crossing occurred in this case and makes any inconvenience to the appellant. Accordingly, Sri C.K. Jayakumar, Assistant Executive Engineer, Electrical Sub Division, Nadakkavu was appointed as Commission who conducted an inspection on 16-07-2015 and submitted his report to this Authority.

The report reveals that the service connection to Sri. Rajathilakan was given from the electric Post No. CE 30/3. There is a foot path from the pocket road to the houses of Sri. Rajathilakan, Sri. Peethambaradasan, Sri. Rajan and Smt. E. Prema. It is claimed that out of the width of the 8 feet pathway, 4 feet is owned by the appellant and her brother Sri. Rajan. She has also stated that there was a wall separating the pathways having 4 feet width on both sides. Now there is no demarcation showing the separation of 8 feet pathway and is being used by the 4 families including the appellant and Sri. Rajathilakan. On going through the sketch submitted by the Commission it is found that the post No. CE 30/3 is located by the side of the 8 feet pathway and weather proof wire provided for giving supply to Sri. Rajathilakan is crossing only the 8 feet common pathway. Moreover, the appellant has not pointed out any specific difficulty caused to her due to the alleged property crossing.

As per Regulation 22 of the KSEB Terms and Conditions of Supply, 2005, ***“The ownership of the service line, even if the cost is borne by the consumer, rests with the Board. This will be applicable for lines constructed by the consumer paying supervision charges to the Board. The Board will be responsible for the maintenance of the service line as well as for giving new service connection. The Board is at liberty to take service lines from the Meter or cut out or any service post of any consumer to give connection to another consumer even by crossing the property of the consumer with the consent of the owner and making the least damage possible to the consumer.”***

In this case the contention of the appellant is that Post No. CE 30/3 situates in the pathway owned by the appellant. The report submitted by the Commission also indicates that the pathway is a private one used by the successors of property partitioned as per Partition Deed 4933 of 1978 of Sub Registrar, Chalappuram, Kozhikode. Admittedly the pathway is not a public one as contented by the respondent. Since there is a dispute as to the ownership of the pathway wherein the electric Post No. CE 30/3 situates, the proper course opened to the respondent is to refer the matter as per Regulation 47 (3) Of Supply Code, 2014 which reads ***“if the owner of the property to be crossed by the proposed line, object to the carrying out of the work, actions shall be taken by the licensee to clear the objection as per rules issued by Government of Kerala as provided in Section 67 and Section 164 of the Electricity Act or any other law for the time being in force.”***

Instead of referring the matter as mentioned above, the respondent entered into a controversy while giving service connection to Sri Rajathilakan where there is a specific objection in the matter. Now the service connection is effected to Sri Rajathilakan on 20-09-2014 with Consumer No. 28970 from the disputed electric Post No. CE 30/3. Even then it is appropriate to refer the matter for a decision by the Additional District Magistrate as per the sections referred above, since civil disputes between rival claimants are involved in the matter.

**Decision**

It is made clear that the service connection given to Sri Rajathilakan will be treated as temporary and subject to the decisions of Additional District Magistrate. The respondent is directed to take steps to refer the matter before the Additional District Magistrate as per the sections referred above at any rate within 15 days from the date of receipt of this Order. The order of CGRF is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

Petition No. P/113/2015 /Dated: \_\_\_\_\_

Forwarded to:

1. Smt. Prema E., Elaveettil House, Kuniyil Parambu, Beypore North P.O., Kozhikode.
2. The Assistant Executive Engineer, Electrical Sub Division, Kallai, KSE Board Ltd, Kozhikode.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, CV Raman Pillai Road, Thiruvananthapuram-10.
2. The Secretary, KSEB Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSEBoard Ltd, Gandhi Road, Kozhikode