



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA
First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Saturday, the Fifth Day of November 2016

Appeal No. 47 of 2016 and Appeal No. 48 of 2016

Preferred against Order Dt. 20-06-2016 of CGRF In

CG.No: 52/2016-17 of Rangareddy South Circle

Appeal No. 47 of 2016

Between

1. Sri. Amarender Reddy S/o. Seetharam Reddy, Flat No. 206, A Block, Prajay Alakapuri Apartments, Green Hills Colony, Road No.2, Saroornagar Village and Mandal. R R Dist.
2. G.Narasimham S/o. Lachiah, R/o. Pothlaram Village, Munugodu Mandal, Nalgonda Dist.

... Appellants

AND

1. Ch.Buchaiah, H.No. 1-4-5/2/3, Plot No.23,Nageshwar Colony, Kothapet, Hyderabad.
2. The ADE/OP/Champapet/TSSPDCL/RR Dist.
3. The AAO/ERO/Champapet/TSSPDCL/RR Dist.
4. The DE/OP/Champapet/TSSPDCL/RR Dist.
5. The SE/OP/RR South Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 27.07.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 26.10.2016 at Hyderabad in the presence of Sri. A. Amarender Reddy - Appellant and Sri. Ch.Buchaiah, Sri.A. Vinod Reddy-ADE/OP/Champapet, Sri. V.Pradeep Kumar - AAE/OP/Meerpet, Sri. N. Swamy - JAO/ERO/Champapet, Sri. V. Krishna Rao - DE/OP/Champapet - for the Respondents.

Appeal No. 48 of 2016

Between

Ch.Buchaiah, H.No. 1-4-5/2/3, Plot No.23,Nageshwar Colony,
Kothapet, Hyderabad.

... Appellant

AND

1. The ADE/OP/Champapet/TSSPDCL/RR Dist.
2. The AAO/ERO/Champapet/TSSPDCL/RR Dist.
3. The DE/OP/Champapet/TSSPDCL/RR Dist.
4. The SE/OP/RR South Circle/TSSPDCL/Hyderabad.

... Respondents

The above appeal filed on 28.07.2016 coming up for hearing before the Vidyut Ombudsman, Telangana State on 26.10.2016 at Hyderabad in the presence of Sri. Ch. Buchaiah - Appellant and Sri.A. Vinod Reddy- ADE/OP/Champapet, Sri. N. Swamy - JAO/ERO/Champapet, Sri. V. Krishna Rao - DE/OP/Champapet - for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The parties are referred to as they appear in Appeal No. 47/2016 for convenience. The Appellants in Appeal No. 47 of 2016 are 3rd parties to CG No. 52/2016-17 RR South Circle (subject matter in both the Appeals). The Appellant in Appeal No. 48 and Respondent No.1 in Appeal No. 47 of 2016 Sri. Ch. Buchaiah filed a complaint before the CGRF stating that he applied for disconnection of the service connection located in Plot Nos. 189 and 190 of Survey No. 60 part at Shivaganga Hills Colony, Karmanghat on the ground that he is the original owner of the plots, having purchased them from the original owner which was subject matter of judgement in OS No. 562 of 2005 dt.5.2.2013 on the file of the Court of VII Additional Senior Civil Judge, RR District confirming his ownership of the plots and sought dismantlement of service issued to the persons who illegally occupied his property. He further stated that some person by name Hussain registered the same plot in favour of Sri. G.

Narasimha and Sri. A. Amarender Reddy, the Appellants herein against whom the complainant filed the suit. The 2nd Respondent/ADE/OP/Champapet through letter dt.4.6.2016 before the CGRF stated that he inspected the service connection Nos. 2521-00412 and 2521-00597(in the plots in question) and found that there is a single room with compound wall and the energy supply was being used by the consumers and they were paying the bills regularly. He stated that the complainant Sri. Ch.Buchaiah has been requesting for dismantling the two services and that he (R2) has not received any orders for dismantlement of the services.

2. During the enquiry before CGRF, the Respondent No. 1 Sri. Ch. Buchaiah stated that the Court of VII Additional Senior Civil Judge, RR Dist has passed judgment dt.5.2.2013 in his suit OS. No. 562 of 2005 confirming his ownership of the property in question and therefore, he requested for dismantlement of the electricity service connections issued illegally to Sri. G. Narasimha and Sri. A. Amarender Reddy the Appellants herein vide S.C.No. 2521-00412 and 2521-00597. On behalf of the Respondents, the ADE/O/Champapet stated that there is no court order to the DISCOM to disconnect the existing services in the premises.

3. The CGRF, after considering the material placed on record, namely the judgment dt 5.2.2013 of the court passed in OS No. 562 of 2005 dt.5.2.2013 declaring the ownership of the plots in the name of Sri. Ch. Buchaiah the Respondent No.1, directed dismantlement of the service connections on the ground that the Civil Court has confirmed the ownership of the plots in question of Sri.Ch. Buchaiah, through the impugned orders.

4. The Appellants Sri. Amerender Reddy and Sri. Narasimham aggrieved and being not satisfied with the orders passed behind their back (not making them as parties before CGRF) preferred the present Appeal admitting that OS No. 562 of 2005 was filed in the court of VII Additional Senior Civil Judge in respect of the plots in question by the Respondent No.1 Sri. Buchaiah. They claimed that in fact they have purchased the disputed plots from the original owners from whom the 1st Respondent Sri. Buchaiah said to have purchased the plots and that they have constructed rooms in their respective Plot Nos. 180 and 189, secured electricity connections bearing No.s 2521-00597 and 2521-00412 and that they have been paying the consumption bills regularly.

5. The Appellants herein pleaded that the Respondent No.1 Sri. Buchaiah has not challenged the issue of service connections in their names in the suit in question and failed to prove his possession over the plots in question. Sri. Buchaiah(R1) preferred an Appeal suit No. 151 of 2013 in court of II Additional District Judge RR Dist and it is still pending in which the Appellants herein are contesting. The Appellants filed copy of cross appeal stated to have filed by them in the Appeal suit No. 151 of 2013 to question the Judgement and decree in OS No. 562/2005 dt.5.2.2013.

6. The Appellants further contended that CGRF passed the impugned orders ex parte against them and claimed that their non appearance before the forum on 6.6.2016 is neither wanton nor willful as they have not received any notices and that they have no knowledge about filing of the complaint before the CGRF. They claimed that the documents relied on by Sri. Ch. Buchaiah (R1) are under contest and his title is still sub judice pending decision before the court of the II Additional District Judge RR Dist. Without any order of the civil court, they claimed that the dismantlement of service is against the electricity rules and regulations and against the principles of natural justice and sought the impugned orders to be set aside.

7. Sri. Buchaiah (R1) filed Appeal No. 48 of 2016 claiming that he purchased Plot No.s 189 and 190 in question in the year 1982 under a Regular sale deed and that he gave complaint against two purchasers by name Sri.G. Narasimha and Sri. Amerender Reddy (the Appellants) who claimed to have purchased the same plots in the year 2005 and 2004 respectively and that he gave a complaint to DEE champapet in the year 2005 alleging that both the said persons secured Double registrations and that on the advice of CGRF, he filed the present appeal. The ADE/OP/Champapet/R2 submitted a report dt.4.8.2016 in the Appeal merely repeating the order of the CGRF. Through this letter, the ADE/OP/Champapet(R2) informed Sri. G. Narasimham and also Sri. A. Amarender Reddy (Appellants) about disconnection and dismantlement of the service connections 2521-00412 and 2521-00597 with immediate effect from the date of receipt of the letter.

8. The ADE/OP/Champapet, the 2nd Respondent through letter dt.29.7.2016 addressed to the CGRF gave the following details of the service connections of the Appellants:-

S.No. 2521 00412	SC No. 2521 00597
G. Narasimha, Plot.No. 189	A. Amarender Reddy Plot No. 190
Meter.S.No. 16533443, HPL,5-30A, S-Phase	Meter.S.No. 21437112, HPL,5-30A, S-Phase
Final Reading - 2211/Dt.29.7.2016	Final Reading - 472/Dt.29.7.2016

9. On behalf of the Appellants, two copies of registered sale deeds are filed one dt.5.1.2005 executed by one Khaja Faraz Hussain and J. Kotaiah in favour of Sri. G. Narasimha (Appellant No.2) conveying plot No. 189 measuring 240 Sq.Yards in Sy. No. 60 of Karmanghat village and another a copy of registered sale deed dt.28.12.2004 executed by one Khaja Faraz Hussain only in favour of Sri. A . Amarender Reddy (Appellant No 1)conveying Plot No. 190 measuring 300 Sq.Yds in Sy.No. 60 in Karmanghat village. On behalf of Sri. Buchaiah, the 1st Respondent a copy of his registered sale deed dt.25.6.1982 executed by Smt. V.Ratnabai through her GPA in his favour conveying 523 Square yards in Plot No.s 189 and 190 in Sy.No. 60 of karmanghat village is filed. He also filed a copy of the occupancy rights certificate dt. 26.2.1979 issued in favour of Smt. V. Ratnabai ,his vendor for an extent of 22 acres in Sy.No. 60 of Karmanghat village and also a copy of layout approved by Karmanghat Panchayat on 15.6.1981 in support of his claim apart from newspaper cuttings.

10. In view of the nature of allegations in both the matters and the facts, there could be no meeting point between the parties on any aspect and thus the efforts at mediation failed.

11. On the basis of the record and the respective contentions,the following issues arise for determination in these two cases:

1. Whether the impugned orders are liable to be set aside?
2. Whether pendency of Appeal Suit No. 151 of 2013 has any bearing on the impugned orders?

Arguments heard.

Issues 1 & 2

12. In the two plot Nos. 189 and 190 in question in Sy.No. 60 part of Sivaganga Hills colony, Karmanghat there are two service connections SC No.2521-00412 in the name of Sri. G. Narasimha in plot No. 189 and SC No. 25121-00597 in

Plot No.190 in the name of A. Amarender Reddy, the Appellants herein. According to the report of the 2nd Respondent/ADE/OP/Champapet, the Appellants have been paying the CC bills regularly. In support of their ownership the Appellant No.1 is relying on a regular sale deed dt.28.12.2004 in his favour relating to plot No. 190 and the Appellant No.2 is relying on a regular sale deed dt.5.1.2005 in his name relating to plot No. 189 executed by One Khaja Faraz Hussain and another. The Respondent No.1/Buchaiah termed these sale deeds as double registrations. To settle the disputes, it appears that the 1st Respondent/Ch. Buchaiah filed OS No. 562 of 2005 against the Appellants (Defendants 3&4 in the suit) herein as well as the vendors of the Appellants seeking declaration of title and possession and the suit was decreed on 5.2.2013 declaring only title of the 1st Respondent/Ch.Buchaiah over the property in question.

13. The Appellants filed copy of Appeal suit No. 151 of 2013 filed by the 1st Respondent Sri. Chiluka Buchaiah and so also a copy of Cross Objections in the Appeal suit filed by the Appellants herein. The Appeal is still pending in the court of II Additional District Judge RR district. The Appellants filed copies of electricity bills paid by them for the service connections. The 1st Respondent, it appears, has applied to the 4th Respondent/DE of Champapet on 25.7.2013 for disconnection of the power supply issued in the name of the Appellants herein, against which no action has been taken. Therefore, he lodged a complaint with the CGRF. Only on the basis of the decree of the civil court declaring the title of the 1st Respondent Sri. Buchaiah as the owner of the plots, the ADE/OP/Champapet directed dismantlement of the service connections and accordingly as per the report of the 2nd Respondent ADE/OP/Champapet dt.4.8.2016, the service connections in the two plots issued in the names of the Appellants were dismantled and thus the CGRF directions have been implemented.

14. Extensive arguments have been advanced on behalf of the Appellants as well as the 1st Respondent/Sri. Ch. Buchaiah on the merits of the civil case, which is pending in a civil court. As things stand, the decree of the Civil Court dt. 5.2.2013 in OS No. 562 of 2005 stands. It may be subject matter of Appeal and cross Appeal. The decree of the Court in OS No. 562 of 2005 is ultimately subject to result in the Appeal suit and cross appeal. At this stage, the decree of the trial court can not be ignored. Similarly merits of the civil matter cannot be gone into in these cases. So long as the decree in the civil case stands and there is no stay of the operation of

the decree, the conclusion of the CGRF in ordering dismantling of the service connection based on title, though flawed for breach of principles of material justice, would stand. Even otherwise, the conclusion is not affected in any manner.

15. On behalf of the Appellants, it is vehemently contended that the Respondents have not issued any notice to them before dismantlement of the service connection. A perusal of the impugned orders disclose that no notice was given by the Respondents to the Appellants and also by the CGRF while taking a decision to dismantle the services in the plots in question which is against the principles of natural justice. It is also a fact that the Appellants secured service connections according to the 1st Respondent Sri. Buchaiah behind his back.

16. In view of the serious contest between the Appellants and the 1st Respondent regarding the plots in question in a Civil Court and the finding given by the Trial Court in the suit in favour of the 1st Respondent, the CGRF merely based on the decree of the Court in favour of the 1st Respondent Sri. Ch. Buchaiah, directed dismantlement of the service connections. If any contrary order is passed, it goes against the decree of a civil court in favour of the 1st Respondent. Therefore, the impugned orders cannot be set aside at this stage, without there being any change in the terms of the decree. However the dismantlement of service connections as ordered in the impugned orders shall be however subject to the result of the civil dispute pending in Appeal suit No. 151 of 2013 and also the cross Appeal on the file of the Hon'ble II Additional District Judge, RR District. Thus the pending Appeal suit certainly has a bearing on the impugned orders. In view of the fact that the CGRF is influenced by the Decree of the civil court in passing the impugned orders and pendency of the Appeal suit without there being any stay of the decree of the trial court, no further orders may be passed in this case. The impugned orders thus cannot be set aside for the aforementioned reasons. Both the issues are answered accordingly.

17. In the result, both the appeals are disposed of as follows:
The impugned orders are confirmed, however subject to the result in the Appeal Suit No. 151 of 2013 and Cross Appeal pending in a Civil Court between the two contesting parties.

18. This award shall be implemented within 15 days of its receipt at the risk of penalties as indicated in Clauses 3.38, 3.39 and 3.42 of the Regulation No. 3/2015 of TSERC.

TYPED BY CCO, Corrected, Signed and Pronounced by me on this the 5th day of November, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. Sri. Amarender Reddy S/o. Seetharam Reddy, Flat No. 206, A Block, Prajay Alakapuri Apartments, Green Hills Colony, Road No.2, Saroornagar Village and Mandal. R R Dist.
2. G.Narasimham S/o. Lachaiah, R/o. Pothlaram Village, Munugodu Mandal, Nalgonda Dist.
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Copy to:

8. The Chairperson, CGRF, Greater Hyderabad Area, TSSPDCL, Vengal Rao Nagar, Erragadda, Hyderabad.
9. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.