

***CONSUMER GRIEVANCE REDRESSAL FORUM,
NORTHERN REGION, KOZHIKODE***

PRESENT

SRI.VISHNU.T.P : CHAIRPERSON

SRI.K.P.RADHAKRISHNAN : MEMBER

OP No.48/2011-12

PETITIONER:-

1.Smt.Sreeja.V.V, Manathankandy, Karumala (P.O), Balussery-673612.

RESPONDENTS:-

1. The Assistant Executive Engineer, Electrical Sub-Division, Balussery, KSEB, Kozhikode Dt.
2. The Assistant Engineer, Electrical Section, Unnikulam, KSEB, Kozhikode Dt.

Copy forwarded to:

1. The Deputy Chief Engineer, Electrical Circle, KSEB, Kozhikode Dt.
2. The Executive Engineer, Electrical Division, KSEB, Balussery, Kozhikode Dt.

O R D E R

Case in brief:-

The Petitioner is aggrieved by the delay occurring in getting electric connection. She had applied for electric connection and paid the required amount. When enquired about the delay to get electric connection, the KSEB authorities informed her that the previous owner of the property had owed Rs.2,50,000/- to KSEB and the Petitioner would get electric connection only if she paid this amount. The Petitioner contends that she is in no way responsible for this amount. She is sad about her children who cannot study as there is no light in the house. Under these circumstances, the Petitioner requests the Forum for relief.

Version filed by the Respondents:-

In return the Respondents submitted that the Petitioner had applied for service connection to her newly constructed residential building and remitted the required amount. While accepting the CD and OYEC the Respondents' office was unaware of the liability already existed in the same premises against a previous connection. Before effecting the connection it was revealed from the office records that a liability to the tune of Rs.2,46,562/- had been pending against a previous connection in the same premises bearing Con.No.15037, in the name of Smt.Devi Amma, Potil Padikkal, Karumala. That service connection was dismantled on 01.08.2009 due to the non payment of current charges and the details of the arrears was reported to Executive Engineer, Electrical Division, Balussery on 28.12.2009 for initiating RR action. The above fact was intimated to Smt.Sreeja, the Petitioner, directly and through letter vide No.BB/General/2011/72/11.08.2011. The Petitioner did not receive the letter. Smt.Devi Amma, the registered consumer of the previous connection did not intimate about the sale of property in that office until 24.11.2011. K.S.E Board circular No.KSEB/TRAC/S.Code/05/RR/190/16.03.2006 stipulates that "reconnection or new connection shall not be given in to any premises where there are arrears on any account due to KSE Board pending payment, unless the arrears including penalty if any cleared in advance". The service connection

to the newly constructed building of the petitioner was kept in abeyance as per the existing rules due to the above liability in the premises.

Findings of the Forum:-

The issue in contention here is whether the Petitioner is eligible for a fresh electric connection when her premises is owed by the previous current charge arrears incurred by the previous owner of the premises / property.

Clause 12 of the Kerala Electricity Supply Code, 2005 states that if a purchaser of a premise requires to have a new connection, as the earlier connection has already dismantled after disconnection, the arrear, if any, shall be realized from the previous owner/ occupier of the premises and not from the purchaser. At the same time the Respondents have adduced a KSEB Circular, vide No.KSEB/TRAC/S.Code/05/RR/190/16.03.2006, that prevents the conferring of fresh connection or reconnection to a premise where there are pending arrears on any account due to KSEB, unless the same is cleared in advance.

But the Hon'ble Supreme Court of India in its Judgment, Dated 20, August, 2010, against the Civil Appeal - 6817 of 2010, between the Haryana State Electricity Board and M/s Hanuman Rice Mills and Others, has delivered the following.

- (i) Electricity arrears do not constitute a charge over the property. Therefore in general law, a transferee of a premises cannot be made liable for the dues of the previous owner/occupier.
- (ii) Where the statutory rules or terms and conditions of supply which are statutory in character, authorize the supplier of electricity, to demand from the purchaser of a property claiming re-connection or fresh connection of electricity, the arrears due by the previous owner/occupier in regard to

supply of electricity to such premises, the supplier can recover the arrears from a purchaser.

In view of the above, it is concluded that the Respondents cannot claim the arrears of the previous owner from the Petitioner since there is no statutory rules or terms and conditions of supply that authorize them to demand the arrears from the purchaser of a property claiming re-connection or fresh connection of electricity. Besides, the agreement regarding the old connection was executed between the KSEB and the previous consumer / owner of the premises and not between the KSEB and the Petitioner. Therefore, the Respondents can recover the arrears only from the previous owner of the property.

Orders:-

1. The Petitioner is eligible for new electric connection.
2. The Respondents are directed to effect the service connection to the Petitioner at the earliest. The Respondents can initiate appropriate action against the previous owner/ consumer to recover the arrears.

Dated this the 2st Day of February 2012.

Sd/-
VISHNU.T.P.
CHAIRPERSON.

K.P.RADHAKRISHNAN : MEMBER – Sd/-