

*** THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY**

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+ Writ Petition No.3094 of 2011

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+ DT.25.06.2015

Karingula Narasimha Reddy

...Petitioner

Vs.

\$ The Consumer Grievances Redressal Forum of Northern Power Distribution
Company of A.P.Limited, Warangal, rep.by its Member (Legal) and others

... Respondents

^ Counsel for the Petitioner: Ms.K.Udayasri

for Dr.V.Raja Rama Mohan Rao

! Counsel for respondent Nos.6 & 7: Sri S.Chalapathi Rao

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> Head note:

? Cases referred:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.3094 of 2011

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Dated 25th June, 2015

Between:

Karingula Narasimha Reddy

...Petitioner

And

The Consumer Grievances Redressal Forum of Northern Power Distribution
Company of A.P.Limited, Warangal, rep.by its Member (Legal) and others

...Respondents

Counsel for the petitioner: Ms.K.Udayasri

for Dr. V.Raja Rama Mohan Rao

Counsel for respondent Nos.6 & 7: Sri S.Chalapathi Rao

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to set aside order, dated 22.01.2011, in C.G.No.294 of 2010 of Warangal Circle, on the file of respondent No.1-Forum.

The petitioner claims to be the owner of land admeasuring Acs.2.01 gunta in Survey No.167/3 of Tatikonda Village. It is his pleaded case that he has succeeded to the said property through his ancestor. It is his further case that adjacent land admeasuring Ac.1.01 gunta in the same survey number fell to the share of his brother and that his brother has sold the said land to respondent Nos.6 and 7 under registered sale deed, dated 02.12.2008. The petitioner averred that there were two

bore wells in the land which fell to his share and that both the bore wells have electrical connection standing in the name of his brother. That after sale of the property, the petitioner applied for transfer of electrical connections bearing Service Nos.1157 & 181 in his name and that in pursuance of the proceedings, dated 11.02.2010, of the Assistant Divisional Engineer, Ghanpur the service connections were transferred in his name.

That respondent Nos.6 and 7 have filed O.S.No.760 of 2010 on the file the learned II Additional Junior Civil Judge, Warangal for injunction against the petitioner and that while the said suit is pending, they have approached respondent No.1-Forum for change of two service connections in their favour. That by the impugned order, respondent No.1 has directed respondent Nos.3 to 5 to enter the names of respondent Nos.6 and 7 in respect of the two service connections. Feeling aggrieved by the said order, the petitioner filed this writ petition.

The sheet anchor of the petitioner's case is that respondent No.1 is not vested with the jurisdiction to entertain the application of respondent Nos.6 and 7 and order incorporation of the names of respondent Nos.6 and 7 in respect of the two service connections.

At the hearing, Ms.K.Udayasri, learned counsel for the petitioner, made her submissions on this aspect.

Opposing the submissions of the learned counsel for the petitioner, Sri S.Chalapathi Rao, learned counsel for respondent Nos.6 and 7, has submitted that as his clients have stepped into the shoes of the original landlord, who is no other than the brother of the petitioner, they shall be treated as consumers within the meaning of Section 2(15) of the Electricity Act, 2003 (for short 'the Act') r/w The Andhra Pradesh Electricity Regulatory Commission (Establishment of Forum and Vidyut Ombudsman for Redressal of Grievances of the Consumers) Regulation, 2004 (hereinafter referred as 'the Regulations').

I have considered the respective submissions of the learned counsel for the parties.

Section 42(5) of the Act mandates that every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with

the guidelines as may be specified by the State Commission. In accordance with this statutory mandate, the A.P.Electricity Regulatory Commission has framed Regulation No.1 of 2004 constituting Forum for redressal of grievances of the consumers, appointment and removal of the Members and prescribing the procedure and functions of the Forum.

Section 2(15) of the Act defines 'consumer' as any person who is supplied with electricity for his own use as a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

Regulation 2(c) of the Regulations defined 'complainant' as including a consumer as defined under Section 2(15) of the Act; an applicant for new connections; any registered consumer society and any unregistered association of consumers, where the consumers have similar interest. Regulation 1(d) defined 'complaint' as the letter or application filed with the Forum seeking redressal of grievances concerning the supply of electricity or the services rendered by the licensee. Regulation 5 prescribes the functions of the Forum and Clause-7 thereof provides that the Forum shall receive the complaint of the consumer forwarded to or filed with the Forum so long as such complaint is in writing and the Forum shall not insist or prescribe any format for filing of the complaint or for entertaining it.

The scheme underlying the above-noted provisions would indicate that the legislature has provided a Forum for consumers for redressal of their grievances against licensees. The phrase 'consumer' is specifically defined as noted above. A consumer as defined under Section 2(15) of the Act is the one who is supplied with the electricity for his own use by a licensee or whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be. It is not the pleaded case of respondent Nos.6 and 7 that they were at any point of time supplied with electricity or that their premises were receiving electricity with the works of a licensee, the Government or such other person, as the case may be.

The grievance sought to be projected before respondent No.1-Forum by respondent Nos.6 and 7 was that though they have purchased the property in

question from the brother of the petitioner under registered sale deed in the year 2008, their vendor has fraudulently transferred the two service connections in the name of the petitioner. Thus, on their own showing, respondent Nos.6 and 7 do not fall within the definition of 'consumer' under Section 2(15) of the Act. To fall within the definition of 'complainant', a person other than 'consumer' must *inter alia* show that he has applied for new connection, as per Regulation 2(c) of the Regulations. Admittedly, respondent Nos.6 and 7 have not applied for fresh connections, rather they are seeking change of their names in the register by deleting the name of the petitioner. Hence, they do not answer the description of 'complainant' either. Even if respondent Nos.6 and 7 have grievance against the licensee, such a grievance is not comprehended by the provisions of Section 42(5) of the Act and the Regulations made thereunder.

As noted above, the grievances entertainable by the Forum constituted under Section 42(5) of the Act shall pertain to those raised by the persons who fall either within the definition of 'consumer' under Section 2(15) of the Act or of 'complainant' under Regulation 2(c) of the Regulations. As observed *supra*, respondent Nos.6 and 7 do not fall under either of the two provisions. Respondent No.1 has completely failed to understand the true purport of the scheme and exercised the jurisdiction which is not vested in it.

Another serious legal lacuna from which the impugned order passed by respondent No.1 suffers is that though admittedly the two service connections stand in the name of the petitioner, respondent Nos.6 and 7 have not impleaded him and obtained a direction for transfer of service connections detrimental to his interests. Even for this reason also, the impugned order cannot be sustained.

For the above-mentioned reasons, the impugned order is set aside. Respondent Nos.6 and 7 are left free to pursue any other remedy available to them in law.

The writ petition is accordingly allowed subject to the above observations.

As a sequel to disposal of the writ petition, W.P.M.P.No.3839 of 2011 and W.V.M.P.No.3618 of 2011 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

25th June, 2015

Note: LR copies to be marked.

(b/o)

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