



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 4 of 2012

Thiru. R. Damodharan,
No.2, GST Road,
Kadapperi,
Tambaram, Chennai – 600 045.

. Appellant
(Rep by Thiru. S. Pavesh kannan,
Advocate)

Vs

1) The Chairman,
Consumer Grievance Redressal Forum,
(Superintending Engineer),
Chennai Electricity Distribution Circle / South,
TANGEDCO,
110 KV SS Complex, K.K. Nagar,
Chennai – 78.

2) The Assistant Engineer/O&M,
Kadapperi Section,
Chennai EDC /South,
TANGEDCO, Chennai – 45.

. Respondent
(Rep by Thiru. Manimaran/EE/O&M/
Tambaram)

Date of hearing : 15-5-2012

Date of order : 16 -7-2012

The above appeal petition No. 4 of 2012 came up for hearing before the Electricity Ombudsman on 15-5-2012. Upon perusing the above petition and connected records and after hearing both sides, the following order is passed by Electricity Ombudsman.

ORDER**1. Prayer of the Appellant :-**

The Appellant has prayed for cancellation of the name change done in service connection Nos 255-656-337, 255-656-587, 255-656--338, 255-656-203, 255-656-499, 255-656-590 & 255-656-204.

2. Facts of the Case :

SC Nos 255-656-337, 255-656-587, 255-656-338, 255-656-203 & 255-656-499 & 255-656-590 were originally in the name of Thiru. R. Dhamodaran and 255-656-204 was in the name of his father Thiru. Ramasamy Nadar. The above services have been transferred in the name of Tmt. Jayanthi Sekar on 2.12.2009. The above name transfer was done based on sale deed and the receipt produced by the transferee. The Appellant has contended that as there was a case pending on the ownership of the land, in Tambaram Munsiff Court in OS No.285/2008, the name transfer effected based on the receipt is not correct as in the receipt itself it was printed that if there is any Court case pending, the name transfer is not valid. The Appellant also informed that after name transfer of the service, he being a enjoyer of the service has been paying the amount only thro M.O as the Demand was not intimated to Appellant but the amount to be paid was written in a chit and given to him.

The Appellant has filed a complaint in this regard to CGRF of Chennai EDC South and the CGRF has dismissed the petition.

3 **Orders of CGRF :** In the CGRF order dt.31.12.2011, the following has been recorded namely : -

“Findings of the Forum : It is seen that the petitioner’s grievance have been taken into consideration and proper reply has already been given by the respondent . Inview of the above, the petition is disposed off ”.

4. Contentions of the Appellant :

The Appellant has contended the following in his appeal petition .

(i) The Appellant is the owner (உறைவிட உரிமையாளர்) of premises No.2, GST Road, Kadapperi, Tambaram, Chennai – 40 and is having the following service connection in his name and he has paid security deposit as noted against each service.

<u>Sl.No.</u>	<u>Service No.</u>	<u>Amount of Security Deposit.</u>
(a)	255-656-337	Rs.10305
(b)	255-656-587	Rs.203
(c)	255-656-338	Rs.3869
(d)	255-656-203	Rs.2083
(e)	255-656-499	Rs.3921
(f)	255-656-590	Rs.1788
(g)	255-656-204	Rs.16197(In the name of his father Thiru. Ramasamy Nadar)
	Total	<u>Rs.38,456</u>

(ii) Tmt. Jeyanthi Sekar residing at 4/363A, Sree Saravanabava Nagar first Street, Old Perunglathur, Chennai 63 has illegally obtained the documents of the property of the Appellant and gave general power to Thiru. Sriram Sekar . The above property with building was registered in the name of Thiru. Sriram Sekar’s wife Tmt. Jeyanthi Sekar illegally as vacant land . In this regard, a case

has been filed against him in OS No.285/2008 in Tambaram Munsiff Court and is pending.

(iii) On the instigation of the Tmt. Jeyanthi Sekar Thiru. Sreeram Sekar has damaged the building and disconnected all the electricity service connections of the Appellant in the building without the approval of the Board. In this regard, a complaint has been filed by the AE in Tambaram Police Station. The appellant has also filed a complaint in this regard and FIR has been filed and a criminal case No. PRC No.73/10 on Thiru. Sriram Sekar is now pending at Tambaram Court. This facts were informed to AE kadapperi & EE/Kadapperi on 29.12.2011.

(iv) A copy of the improper registration done on 22.11.2009 for the premises as vacant land and property tax receipt No. தொ.மு.எண்.511460/09 அ2 நாள் 26.11.2009 issued by Tambaram Municipality were used for changing the name of the service connection. In the property tax receipt it has been clearly mentioned that if there is any dispute / case is pending on the property the name transfer is not valid. But the case pending on the above property was not intimated while applying for the change of name for the service connection.

(v) The name transfer was done without the consent of the building owner and without taking into account of the availability of security deposit in the name of the Appellant. The name transfer was ordered in Lr.No.AE/O&M/KDP/AS/C.No.255:656:337/D.1120/12 dt.2.12.2008.

(vi) The service no.255:656:337 alone was transferred but the officials have intimated that all the services of the Appellant have been transferred to Tmt. Jeyanthi Sekar.

(vii) Due to the above change in name the Appellant /consumer was not informed about the CC charges and the CC charges were not entered in the consumer meter cards. The CC charges are written in separate slip and the consumer was not permitted to pay the charges directly but made to pay the CC charges thro M.O.

(viii) Three numbers of service connection were disconnected now without giving any notice as per regulation 14 of Supply Code.

(ix) The Appellant has paid Rs.1,11,663/- and MO charges of Rs.4732/-. But receipt was given only for Rs.54116/- that after applying under RTI.

(x) In CGRF of Chennai EDC / South, no acknowledgment was given within 7 days from the date of receipt of the petition and the final orders, also issued after 2 months but without conducting any enquiry.

(xi) Direct payment based on assessment slip is refused and no reasons was informed for such refusal. As the consumption charges were paid thro M.O. the appellant has to bear the extra charges of M.O. as detailed below :

<u>Date of Payment</u>	<u>CC Charges</u>	<u>M.O. Charges</u>
09.02.2011	49159	2362
04.08.2011	16506	725
22.09.2011	23545	1178
24.11.2011	2553	127
28.12.2011	1278	64
10.01.2012	13830	273

4. Contentions of the Respondent :

The respondent has contended the following in his counter .

- (i) The name transfer has been effected in the service connections already in the name of Thiru. Damodharan to Mrs. Jeyanthi Sekar only after production of necessary documents like property receipt , copy of registered sale deed.
- (ii) After effecting the name transfer, further CC charges are to be collected from the consumer or any authorised person possessing the white meter card with the consumer name.
- (iii) It was informed that CC charges could not be collected from the another person since name transfer has already been effected.
- (iv) Since, it was informed by the appellant that the service connections were being utilized by him, the amount of Rs.49,158/- sent through M.O. dt. 8.2.2011 and 9.2.2011 were accepted and the same was properly accounted against the pending CC charges from 2/2011 in SC No.255:656:337 and other 6 service connections in the same premises.
- (v) Further regular assessment has been carried out in all the service connections from 4/2011 till date .
- (vi) The appellant has been duly informed about the CC charges for the service connections (being utilized by him) and also informed that the service connections will be disconnected without any prior notice if CC charges are not paid within the due date.
- (vii) The available current consumption deposit is Rs.38456/- only. It is informed that , six services were in the name of the appellant , and SC No.255/656/204 was alone in the name of Mr. Ramasamy Nadar. It is

further stated that the respondent has not been intimated about the pendency of OS No.285/2008 before the Tambaram Munsiff Court.

- (viii) To safeguard the materials of the respondents a complaint was lodged.
- (ix) Name transfer of services was effected only after obtaining the required documents and house tax receipt in the name of transferee . Further, consent of transferor is not necessary, since the tax receipt is in the name of transferee.
- (x) As the service was name transferred to the transferee, without the consent of the transferor other meter card cannot be issued. Since there is no provision to enter the assessment details in old cards, the amount of CC charges was informed by a slip. and the CC charges sent by M.O. has been accepted. As per the orders of the respondents CC charges should be paid within 20 days from the date of meter readings.
- (xi) Necessary clarifications were issued then and there to the Appellant. The name transferr order dated 30.11.2009 was signed by the respondent on 2.12.2009. It is submitted that, respondent would not be responsible for sending the amount of Rs.49,459/- by M.O. and the consequent service charges Rs.2,362/-. Further, receipts have been issued for 57,457/- out of the total amount of Rs.1,11,663/- For the balance amount of Rs.54,116/- receipt was not issued since the receipt is in the name of Tmt. Jeyanthi Sekar which is available in his office.

5. Hearing held by the Electricity Ombudsman :

In order to enable the appellant and the respondent to put forth their arguments in person, a hearing was held by the Electricity Ombudsman on 15.5.2012.

6. Arguments of the Appellant :

6.1 Thiru. Parvesh Kannan, Advocate has represented the appellant. The learned counsel reiterated the contents of the appeal petition.

6.2 The learned counsel argued that the name transfer was effected without verifying the documents furnished along with the application. As per the sale deed, the existing building in the land was demolished and the electricity service connection was also disconnected and the land is only a vacant land. A copy of the above document was submitted by the Tmt. Jeyanthi Sekar while submitting her application for name transfer. But the respondent has transferred the name of the service connection based on the above documents as per which there is no building in the land and the service connections were disconnected. A copy of Name transfer order for the said property issued by Tambaram Municipality was furnished by the Appellant. In that receipt, it has been printed that if any case is pending on the said property, then the name transfer made is not valid. Pointing out, the above wordings in the name transfer order of the Tambaram Special Grade Municipality, the learned counsel argued that there was a case pending in Tambaram Munsiff Court on the above property in OS No.285/2008. Hence, the name transfer done in the property by the Tambaram Municipality in its order dt.26.11.2009 is not valid as per the printed matter in the name transfer

order issued by the commissioner. Hence, he argued that as the document based on which the name transfer was done for the services by the respondent is invalid, the change of name done for the 7 nos services is also invalid. Hence, the licensee has to change the name in all the above services in favour the appellant.

6.3 He also argued that the AE has made a complaint to the Inspector of police, Tambaram regarding damaging of the service wire & other applications by unknown persons in the said 7 services. The appellant has also made a police complaint on the above matter . Hence, the respondent is aware that there is a dispute in the above property.

6.4 The learned counsel has also argued that the respondent has intimated that the name of the service will be changed to the appellant's name on production of the order of the competent. Court. But as the case is pending in the Tambaram Munsiff Court the respondent would have directed Tmt. Jeyanthi Sekar only to prove the ownership as the services were in the name of the appellant originally and he is enjoying the service even now also.

6.5 The advocate also informed that the appellant was asked to pay the CC charges by M.O. and the amounts for each service was noted and given to him only in a small bit paper.

7. Arguments of the Respondent :

7.1 The respondent was represented by Thiru. Manimaran, EE/O&M/Tambaram.

He reiterated the contents of the counter. He argued that as per the TNERC Guidelines, any one of the following document is sufficient for transfer the name of a service connection.

- (i) Xerox copy of the sale deed.
- (ii) The property tax receipt in the name of the applicant
- (iii) Metro water/sewerage connection given in the name of applicant.

7.3 Tmt. Jeyanthi Sekar has furnished both the sale deed and Sewerage connection receipt along with her name transfer applications Based on the above documents the name transfer was effected. As the sewerage connection receipt was in the name of Tmt. Jeyanthi Sekar, the name transfer was effected. He also informed that the service connection, were already transferred to Tmt. Jeyanthi Sekar based on the documents submitted, the service connections, can be retransferred to Appellant's name on furnishing of Court order in favour of the appellant. Further, he also informed that if the name transfer orders issued by the Tambaram. Municipality is cancelled, further course of action as deemed fit will be taken by him in this regard after getting legal opinion from the legal cell of his dept.,

7.4 Regarding insisting the consumer to send the CC charges by M.O. he said that no such instruction was given. Further, the EE informed that if payment is made on any service necessary receipt will be given in the name of the service holder. As the meter card was not produced, the assessment was noted down and given to the appellant.

8. Findings of the Electricity Ombudsman :

I have heard both sides and perused the documents adduced before me as evidence. As the prayer of the appellant is to retransfer the name of the service in his favour, I fix the following as the issues for consideration.

(i) What are the Regulations for transferring a name of the service connections to another person.

(ii) Whether consent is required from Thiru. Damodharan for effecting name transfer of a service which is in his name to Tmt. Jeyanthi Sekar.

(ii) Whether name transfer could be effected with security deposit without the consent of the previous service holder or document in support of the transfer of the security deposit.

(iv) Whether the name transfer done is correct.

9. Findings on the First Issue :

9.1 The regulation 5(7) of the TN Elec. Supply Code which deals with transfer of a name of a service connection is reproduced below :

“(7) Name Transfer charge :

(i) Every application for transfer of name consequent to the death of the consumer shall be in Form (1) in Appendix to this code accompanied by :

(a) Legal heirship certificate from the Tahsildar concerned or proof of ownership such as local body tax receipts (latest).

(b) No objection certificate from other legal heirs, if any, (or) an indemnity bond in Form (3) in Appendix to this Code on non-judicial stamp paper for a value of Rs.80/- and a sworn-in affidavit and authenticated by a Notary Public or by a gazetted officer to show the status of other legal heirs.

(c) Fresh application with fee to be specified by the Commission and agreement form.

(ii) Every application for transfer of name, in other cases, shall be in Forms (1) and (2) in Appendix to this Code accompanied by

(a) The document supporting the transfer with an undertaking in Form (4) in Appendix to this Code

(b) Consent letter from the consumer for the transfer of the Security Deposit if it is not included in the document supporting the transfer. Where no such consent letter can be produced, the applicant shall pay fresh Security Deposit.

(c) Fresh application with fee to be specified by the Commission and agreement form.

Explanation : *The name transfer is effected only for such services which are not under disconnection.”*

9.2 The present case falls under Regulation 5(7)(ii) as it is coming under transfer of the service name consequent to sale of a property.

9.3 On a careful reading of the above regulation, it is noted that the applications transfer of name shall be (a) in forms (1) & (2) and accompanied by the documents supporting the transfer with undertaking in form(4).

(b) consent letter from the consumer for transfer the security deposit if it is not included in the documents supporting the transfer where no such consent letter can be produced, the applicant shall pay fresh security deposit.

(c) Fresh application with fee as specified by the commission and agreement form.

The form -1 is a format for name transfer application indicating the address of the transferee and the details of the service connection for which the name transfer is requested . The property is in the possession of the transferee will also be indicated.

The documents supporting the transfer as per form(1) is detailed below :

- (i) Xerox copy of the sale deed for the said premises. Or
- (ii) Attested Xerox copy of the property tax receipt for the above property given in the name of the transferee. Or
- (iii) attested Xerox copy of the Metro Water/Sewerage connection given in the name of the transferee

The form-2 is the format of the consent letter from the transferor in case of sale etc., the same is given below :

*“FORM-2
NAME TRANSFER FORMS [REFER TO REGULATION 5 (7)]
(To be used as a consent letter from transferor in case of sale etc.)*

*To
The Designated Engineer /
Address of the Licensee Engineer*

*I.....(S/o. D/o. W/o.)owner of premises
bearing Door No.(Name of the Street Place) hereby give
my consent for the transfer of service bearing A/c. No.standing in my
name / in the name of ... to Thiru/Tmty.]S/o. D/o. W/o.
.....since I had sold my house to him/her.....
The transfer may be effected with available deposit / subject to the condition that the
transferee pays the security deposit and other charges *.*

*Signature of transferor,
Full Address.*

Place

Date

** Strike out the portion not required”*

The expressions “ shall be in form (1) and (2) occurring in the said Regulation 5(7)(ii) would indicate that both form (1) and (2) is essential for name transfer.

10. Findings on the Second Issue :

10.1 The appellant's advocate has argued that the consent of the service owner was not obtained. Had this been insisted the case pending on the court would have come to light and the transfer would not have been effected.

10.2 In this regard, the regulation 5(7)(ii) has to be referred. Which has been reproduced in para 9.1 above.

10.3 It could be seen from the said regulation that the application for name transfer of a service connection shall be in forms (1) & (2) in appendix to Supply Code. The form(2) is the format for the consent letter from the transferor in case of sale etc., As per the said regulation form(1) and form (2) are to be submitted. The word "and" employed is important. It implies both forms are necessary. Hence, it is held that consent letter from the transferor is required for transferring the name of the service to the transferee in case of sale. Hence, this point is decided in favour of the appellant.

11. Findings on the Third Issue :

11.1 The appellant informed that the security deposit paid by him was transferred to Tmt. Jeyanthi Sekar while transferring the name of the service connection without his consent.

11.2 It is noted that as per the sale deed service connection available in the said premises was disconnected and it is a vacant land . Hence, as per the sale deed there is no service connection and hence there is no sale along with transfer of security deposit available . The respondent has also stated that no

consent letter was obtained from the appellant for the name transfer or transfer of the security deposit.

11.3 In this regard regulation 5(7) (ii) of the Supply Code is reproduced below :

“(7) Name Transfer charge

(ii) Every application for transfer of name, in other cases, shall be in Forms (1) and (2) in Appendix to this Code accompanied by

(a) The document supporting the transfer with an undertaking in Form (4) in Appendix to this Code

(b) Consent letter from the consumer for the transfer of the Security Deposit 8[if it is not included in the document supporting the transfer. Where no such consent letter can be produced, the applicant shall pay fresh Security Deposit.

(c) Fresh application with fee to be specified by the Commission and agreement form.

Explanation : *The name transfer is effected only for such services which are not under disconnection.”*

11.4 As per the said regulation 5(7)(ii)(b) if there is no supporting document for transfer of security deposit or consent letter from the consumer for transfer of security deposit, fresh security deposit has to be paid by the transferee.

11.5 In view of the above , I am of the considered opinion that the security deposit paid by the appellant cannot be transferred along with service connection to be transferee.

12. Findings on the Fourth Issue :

12.1 The appellant’s advocate argued that as per the printed condition in the name transfer ordered on the property by Tambaram Municipality, the name transfer is not valid if any dispute / case is pending on the said property . As

there was a case pending in the munsiff court Tambaram on the said premises between the appellant and Tmt. Jeyanthi Sekar in OS No.285/2008 the name transfer order issued by the Tambaram Municipality on 26.11.2009 is not a valid document. Hence, the name transfer done based on the above document is not correct. Further, he also argued that as per the copy of the sale deed furnished by the Tmt. Jeyanthi Sekar the building in the above premises have been demolished and the service connections were disconnected. Hence, the licensee has not properly scrutinized the documents before sanctioning the name transfer.

12.2 The respondent has stated that at the time of sanctioning of the name transfer proposal, the dispute over the property and case pending in the munsiff court, Tambaram are not known to the respondent and hence he has changed the name of the service in favour of the appellant. However, the respondent has stated that as court case is pending on the above property, on production of court order in favour of the Appellant, the name transfer effected on the service connections will be cancelled and the same will be retransferred to the Appellant.

12.3 As per regulation 5(7)(ii) of the Supply Code the name transfer application shall be in forms (1) & (2) in Appendix to the Supply Code accompanied by the following (a) document supporting the transfer with an undertaking in form (4) in Appendix to Supply Code. (b) consent letter from the consumer for the transfer of security deposit if it is not included in the document

supporting the transfer where no such consent letter can be produced, the applicant shall pay fresh security deposit.

12.4 The form (1) is a format of application seeking name transfer indicating the details of premises and service connection. Along with the application, any of the following documents has to be enclosed namely; Xerox copy of the sale deed in favour of the applicant or

The property tax receipt for the above property issued in the name of the applicant and Xerox copy of the same duly attested by the Gazetted Officer. Or Metro Water/Sewerage connection given in the name of the applicant and the Xerox copy of the same duly attested by the Gazetted officer.

12.5 But on verification of the records furnished by the respondent it is seen that respondent has obtained the following documents only.

- (1) Form (1)
- (2) A copy of registered sale deed No.769/2008
- (3) Copy of sewerage system initial deposit receipt No. 291486 dt.19.11.2009 issued by Tambaram special grade Municipality in the name of Tmt. Jeyanthi Sekar.
- (3) Indemnity Bond.
- (4) Application form.

In addition to the above, the following documents are also available with the respondent :

- (a) property tax receipt No.9007260 dt. 20.11.2009 for 2009-2010 issued by Tambaram Special Grade Municipality.

(b) Name transfer order of property tax dt. 26.11.2009 issued by the Commissioner of Tambaram Special Grade Municipality.

12.6 The following documents that are necessary for transferring the name of the service connection are not obtained.

(i) The consent letter from transferor as specified in form (2) (ii) Either consent Letter from transferor for transferring the security deposit or fresh security deposit for the services.

Hence, it is held that the name transfer sanction accorded is not satisfying all the condition stipulated in regulation 5(7) (ii) of the Supply Code.

13. Conclusion :

13.1 In view of my findings in para 9 to 12 above, I am of the view that the name transfer done in the above services are not in conformity with the regulation 5(7)(ii) of the Supply Code.

13.2 It is noted that the ownership of property is pending at Munsiff Court of Tambaram in OS No.285/2008 and the above issue could only be decided by the civil court.

13.3 As the ownership issue is pending at the Munsiff Court, Tambaram, I am of the view that the status quo of the services may be maintained till the ownership issue is decided by the Civil Court.

13.4 CC charges for the above services paid by the Appellant/consumer shall be accepted.

With the above findings, the Appeal Petition No. 4 of 2012 is disposed of by Electricity Ombudsman . No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

- 1) Thiru. R. Damodharan,
No.2, GST Road,
Kadapperi,
Tambaram, Chennai – 600 045.
- 2) The Chairman,
Consumer Grievance Redressal Forum,
(Superintending Engineer),
Chennai Electricity Distribution Circle / South,
TANGEDCO,
110 KV SS Complex, K.K. Nagar,
Chennai – 78.
- 3) The Assistant Engineer/O&M,
Kadapperi Section,
Chennai EDC /South,
TANGEDCO, Chennai – 45.
- 4) The Chairman & Managing Director
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.
- 5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmipathy Salai
Egmore,
Chennai – 600 008.
- 6) The Assistant Director (Computer)
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmipathy Salai
Egmore,
Chennai – 600 008. - for hosting in the website.