

(1996) 02 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

CHAIRMAN TAMIL NADU ELECTRICITY BOARD

APPELLANT

Vs

M Abdul Hameed

RESPONDENT

Date of Decision : 28-02-1996

Acts Referred:

Citation : 1996 1 CPJ 312 : 1996 2 CPC 335 : 1996 2 CPR 116 : 1997 1 CLT 139

Hon'ble Judges : V.BALAKRISHNA ERADI , R.THAMARAJAKSHI , S.P.BAGLA J.

Judgement

1. THIS Revision Petition is directed against the order dated 6.3.95 passed by the State Consumer Disputes Redressal Commission, Tamil Nadu in A.P. No. 46 of 1995.

2. THE complainant is the owner of house site bearing No. T.S. No. 89, Thiruvavaduthurai in Mayiladuthurai Taluk. Right above his house site, a high tension electric wire of the Tamil Nadu Electricity Board (TNEB) is passing and the same is causing hindrance for the construction of his house. He approached the opposite party Electricity Board (Revision Petitioner herein) for shifting the high tension electric wire and an order was passed on 24.11.79 for payment of expenses in the sum of Rs. 2,533/ - which he paid on 27.2.80. But the high tension wire has not been shifted. He filed a complaint before the District Forum at Nagapattinam with a claim for removal of the high tension electric wire and compensation of Rs. 2,00,000/ -. The contention of the opposite party was that since there are houses on all sides and they were raising objection to the shifting of the high tension wire, they could not carry out the work. The District Forum rejected this contention and directed the opposite party to remove the said high tension electric wire and pay compensation of Rs. 10,000/ - and costs of Rs. 500/ - to the complainant. The opposite party preferred an appeal before the State Commission. The State Commission held that it is a well settled principle of law that without the consent of the owner of the private land, the Electricity Board cannot take its supply line over his land at any height whatsoever from the surface because under the ordinary law, the owner of the site is the owner of everything upto the sky and down to the centre of the earth. It is, therefore, the

duty of the appellant to remove the high tension electric wire over the complainants land. If the neighbouring owners object to the shifting of the line over any of their lands/buildings, the Board must take the wire by a circuitous route or by putting the underground cables at public streets for which necessary powers are conferred on it under Section 12 of the Indian Electricity Boards Act. In the result, the State Commission confirmed the order of the District Forum.

3. AGGRIEVED by this, the Board has preferred this Revision Petition before us. We have heard the case and perused the records. The Board have reiterated the point that the high tension electric wire passing through the land is not meant for supply of electricity to the respondent -complainant and that the request made by him was not in his capacity as a consumer of electricity in relation to the Board but was one of the enjoyments of his land as owner thereof. There is also force in the point made by the petitioner -Board that the said wire has been in existence for more than 40 years and that although the complainant had paid the charges for shifting in 1979, he had kept quiet for over 15 years. The Board averred that the shifting of the line may cause low voltage in the area and expressed their helplessness in the matter of shifting the overhead wire. However, the Board could have intimated the position to the complainant as soon as they found it difficult to shift the wire and refunded the charges collected in March 1980 from him. The complainant has pointed out that the Board has no right to delay the matter after keeping the amount paid by him. Available records do not show that the Board have returned the charges to the complainant.

4. IN the facts and circumstances of the case, we direct the petitioner -Board to refund the shifting charges of Rs. 2,533/ - to the complainant within a period of 3 months from the date of receipt of this order with interest @ 12% per annum from April, 1980 till the date of refund. As for the main question of shifting of the high tension line above his site, the complainant may seek remedy by way of civil suit, if so advised. The revision -petition is disposed of as above. Parties will bear their respective costs. Petition disposed of.