

(1997) 07 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

MARIAMMA UNNUNNI

APPELLANT

Vs

ASSTT. ENGINEER, ELECTRICAL MAJOR SECTION

RESPONDENT

Date of Decision : 14-07-1997

Acts Referred:

Citation : 1999 1 CPJ 113

Hon'ble Judges : P.K.Shamsuddin , K.M.Latha J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal is directed against the order passed by the District Forum, Kollam, in O.P. No. 573 of 1996. The complainant is the appellant.

2. THE allegations in the complaint are as follows: THE complainant is a subscriber to electric energy under the opposite party, her Consumer No. being 11947. She had remitted the current charges till 23.10.1996 but from 13.2.1996 she was not getting current and her service was disconnected. A version was filed by the opposite party denying the allegations. It was stated in the version that on receipt of complaint they examined the register and found on 14.2.1996, 28.3.1996 and 27.7.1996, there was no supply and thereafter Line Assistant restored the connection. On 9.1.1997 they went and examined the premises of the complainant and it was found the main switch was off and that was the reason for not getting connection. When the main switch was switched on it was found connection was restored.

The District Forum, no doubt, in the order stated that the owner of the Rubber Estate withdrew his consent and he is placing obstructions in the passage of current and the opposite party filed a complaint before the S.I. of Police on 24.2.1997 regarding this. He has also filed a petition before the District Collector on 30.7.1997 to retain the line after due enquiry. It also held that from the facts and circumstances there is no deficiency in service on the part of the opposite party, but there was interference from a third party against which opposite party took strong action. In that view it passed an order stating that it hoped that the opposite party with the support of the Police and orders from the District

Collector will continue to give supply to the complainant.

3. LEARNED Counsel appearing for the complainant has brought to our notice two decisions of the Kerala High Court. One is rendered by a Single Judge of the Kerala High Court in Poulose Kunju v. Kerala Electricity Board and Others, 1997 (2) KLT 856. The Single Judge took the view that withdrawal of consent by the owner on a later date cannot be a reason for removal of electric line. Another one is rendered by a Division Bench of the Kerala High Court in Kerala State Electricity Board v. P.M. Matheyman, 1992 KLT 514. In that case the owner of the property had not raised any objection when the lines were laid. It was long thereafter the respondent purchased the property from the original owner and the Division Bench held that there is no justification that the line should not have been laid over the property. Therefore it is clear that once a line was drawn without objection of the owner of the land it would not be open to the owner to object at a later stage and get the line dismantled. However, in this case, the stand taken by the opposite party that they did not disconnect or dismantle the line. In the circumstances the view taken by the District Forum that there is no deficiency in service appears to be correct. However, there is a duty cast on the opposite party to see that the line which is dismantled unauthorisedly is restored and the only direction that can be given to the opposite party is to take appropriate steps to see that the line is restored. It is not at all necessary to get another order from the District Magistrate under Section 16 of the Indian Telegraph Act in a case of this nature where the line was already laid without any objection of the owner. In the circumstances we direct the parties to take steps to restore the line and give connection to the complainant within a period of one month. The appeal is disposed of as above. Appeal disposed of.