

**Before Maharashtra State Electricity Board's
Consumer Grievance Redressal Forum,
Nagpur Urban Zone, Nagpur**

Case No. CGRF(NUZ)/010/2005

Applicant : Shri Ramkishor Soman Pal
At Juna Futala Wasti,
Near Futala Talao,
Nagpur – 440 033.

Non-Applicant : The Executive Engineer,
MSEB, Civil Lines, Division (NUZ)
Nagpur.

Quorum Present : 1) Shri S.D. Jahagirdar, IAS (Retd)
Chairman,
Consumer Grievance Redressal
Forum Nagpur Urban Zone,
Nagpur.

2) Smt. Gouri Chandrayan,
Member,
Consumer Grievance Redressal
Forum, Nagpur Urban Zone,
Nagpur.

ORDER (Passed on 21.05.2005)

The applicant Shri Pal has filed before this Forum his grievance application in the prescribed schedule "A" on 14.03.2005 as per Regulation No. 6.3 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2003 here-in-after referred-to-as the said Regulations.

The grievance of the applicant is in respect of non-removal of the electricity pole erected by the MSEB some ten years back which is causing annoyance to the applicant's family.

The matter was heard by us and both the parties were given adequate opportunity to present their respective say. Accordingly, both the parties presented their submissions. Documents produced by both the parties are also perused by us.

After receipt of the grievance application, the non-applicant was asked to furnish parawise remarks on the applicant's application in terms of Regulation numbers 6.7 and 6.8 of the said Regulations. Accordingly, the non-applicant submitted his parawise remarks dated 28.03.2005 to this Forum on 02.04.2005. A copy of this parawise report was given to the applicant and opportunity was given to him to offer his say on this parawise report also.

The limited grievance of the applicant is in respect of non-removal of the electricity pole erected in his plot area by the MSEB.

The applicant has contended that he is the owner of the plot area in which the MSEB had erected electricity pole without his consent. According to him, this electricity pole is causing lot of annoyance to his family. The applicant has produced a copy of the sale-deed dated 07.06.1966 and relying on this sale-deed, the applicant claims to be the owner of the plot in question and also the

house already constructed in the plot. His house is bearing Municipal Corporation House number 512 A. According to the applicant, the plot area owned by him admeasures 70 ft. x 40 ft. The applicant has also produced a copy of his application addressed to the MSEB Engineer in charge of Dharampeth, Civil Lines, Nagpur requesting there-in to remove the electricity pole from his plot area. He has also produced a copy of the map showing the location of his plot bearing City Survey Number 7. A copy of the reply dated 02.02.2005 given by the Junior Engineer, Dharampeth Sub-station NUZ, MSEB, Nagpur is also produced by the applicant. The Junior Engineer has informed the applicant in this reply that the electricity pole and the service line are laid long ago and nobody had objected to the erection of the pole and also laying of the service wire at that time. The reply further states that this pole was erected with a view to enable MSEB to give electricity connection to the applicant only and that the pole and the service line can be shifted if and only if the applicant incurs expenditure on the shifting thereof. The applicant on receiving this reply sent his letter, being letter dated 11.02.2005 addressed to the Executive Engineer, Civil Lines Dn, MSEB, Nagpur stating therein that consent was not procured by the non-applicant at the time of erection of the electricity pole and that the applicant cannot be penalised for the mistake committed by the non-applicant. According to the applicant, the electricity pole and the service wire need to be shifted out of his plot area since the pole was erected in his plot area without the

written consent of the owner and since this pole is causing danger and annoyance to his family members. The applicant has also produced a zerox copy of the measurement plan signed by the City Survey Officer, Nagpur on 18.05.2005 which is among the case papers. Measurement of the plot was carried out by the City Survey Officer on 20.04.2005 at the instance of the applicant. Relying on this measurement plan, the applicant contended that an area of 223.045 Sq. meters is shown to be in his possession by the City Survey Officer and further that the location of the electricity pole in question is clearly shown in this measurement plan within the plot area physically possessed by him. The applicant lastly requested that the non-applicant may be directed to remove the electricity pole and the service wire etc. from his plot area and thereby remove his grievance.

The non-applicant has stated in his parawise report that the LT line for the pole in question is in existence prior to the construction of the house and that the line is passing just adjacent to the plot of the applicant. The applicant approached the MSEB on 10.01.2005 requesting for shifting of the pole. After spot inspection, the MSEB wrote a letter to the applicant asking for his consent for payment of the shifting charges. The applicant by his letter dated 11.02.2005 consented for payment of only labour charges for shifting of the pole which, according to the non-applicant, is not admissible as per existing rules of MSEB. The non-applicant has quoted condition number 4.9 (i) of the

conditions of the supply of electrical energy stating that the service line once laid for LT connection shall be transferred or shifted from one premises to another, if any consumer so desires, provided that the entire cost of shifting of the service line including the cost of service line and other materials, if any, plus the supervision charges at 15% is borne by the consumer and such a shifting is technically feasible. The non- applicant has further stated that even if a line is shifted after payment by the consumer, it will have to be replaced only by under-ground cable for which a tentative cost estimate of Rs.54,660.86 is prepared by the non-applicant in the instant case.

During the course of hearing, a point was raised by the non-applicant to the effect that location of the electricity pole in question is not falling within the plot area claimed to be owned by the applicant. The applicant thereupon stated that the pole in question was erected in his plot area only and that he is prepared to produce a documentary evidence to prove his claim. The applicant was therefore, granted time to produce the measurement plan from the City Survey Officer as an evidence. Accordingly, the applicant has produced a copy of the measurement plan.

We have carefully gone through the record of the case, all the documents produced by both the parties as also all the submissions made before us by both of them.

The limited point to be decided in this case is whether the electricity pole in question is located within the plot area owned by the applicant.

The applicant is relying on the measurement plan produced by him to show that the electricity pole in question is located in the area of plot physically possessed by him. The non-applicant, on his part, is disputing the ownership of the total plot area in question. From the measurement plan produced by the applicant, it is seen that the City Survey Officer carried out the measurement of the plot on 20.04.2005 at the instance of the applicant. The City Survey Number of the plot in question is number 7. This measurement plan shows that an area of 223.04 sq. meters is in possession of the applicant and the electricity pole in question is located in the area physically possessed by the applicant. However, it is pertinent to note that the authentic area of the City Survey Number 7 as per City Survey Record is only 73.10 sq. meters. This demonstrates that the applicant is physically possessing excess area of around 150 sq. meters over and above the authentic area of CTS No. 73. The City Survey Record is revealing area of 73.10 sq. meter of the City Survey Number 7. As the City Survey Record stands to-day, the applicant can be said to be the legal owner of only 73.10 sq. meters and the legality of the excess area of 150 sq. meters in the physical possession of the applicant is a question mark. It is the contention of the applicant that he has purchased plot area measuring 70 ft. x 40 ft. from the earst-while owner way back in June 1996 and since then he

is enjoying possession of this area. However, the City Survey Record is showing authentic area of the plot in question as only 73.10 sq. meters. In view of this tactical situation, the applicant's contention that the electricity pole in question is located in the area of plot held by him cannot be accepted by us unless and until the legal ownership for the entire plot area of 223.04 sq. meters vis-a-vis the area of the City Survey Number 7 of Mouza Futala, Tahsil & Dist. Nagpur is proved beyond doubt.

In the light of above we are of the view that the applicant has failed to prove his claim. Mere possession of any plot area does not bestow right of legal ownership unless the same is proved by cogent, corroborative and convincing documentary proof.

In view of above, we are unable to accept the grievance application of the applicant.

The grievance application of the applicant, therefore, stands rejected.

(Smt. Gauri Chandrayan)
MEMBER

(S.D. Jahagirdar)
CHAIRMAN

**M.S.E.B.'S CONSUMER GRIEVANCE REDRESSAL
FORUM, NAGPUR URBAN ZONE, NAGPUR.**