

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.684of 2013

Order with signature of Judge

1. For hearing of CMA No.2414/2014.
2. For hearing of CMA No.13731/2013.
3. For hearing of CMA No.13654/2013.
4. For hearing of CMA No.13653/2013.
5. For hearing of CMA No.6479/2013.
6. For hearing of CMA No.6480/2013.
7. For hearing of CMA No.6717/2013.

07.03.2014.

Mr. Naveed Ahmed, advocate for the plaintiff.

Mr. Umer Lakhani, advocate for the defendant.

NAZAR AKBAR.J- 1 to 5. Deferred.

6. The instant application is pending on the issue of installation of meter of electricity by KESC at the premises of Plaintiff pending the suit. The record shows that in September 2009 temporary electricity connection was provided to the plaintiff, which was subsequently disconnected on the pretext that the requirements of policy for new connection have not been met by the plaintiff. On the last 3/4 dates of hearing, this Court has been making efforts to get this issue of installation of electric meter amicably settled between the plaintiff and the KESC and in this regard KESC was directed to provide connection policy manual so that the Court may examine the impediment in the way of KESC in respect of installation of the electricity meter at the premises of the plaintiff.

It is admitted position that the premises where the plaintiff is running a Marriage Lawn belongs to the KMC and the KMC has not only

allowed the Plaintiff to run a Marriage Lawn, it has also issued a NOC addressed to the KESC for installation of the electricity meter on the premises. A similar NOC has been issue by Town Officer; Gulshan Iqbal. Both letters of NOC are of September 2009. Despite both these letters, it has been consistent plea of the KESC that the requirements in respect of the documents for new connection have not been fulfilled.

Today, learned counsel for the KESC has placed a copy of KESC Policy Manual for New Connections and referred to pages 141 and 165. This manual at page 165 paragraph-3 is dealing with the requirement of new connection which is reproduced below:-

3. REGISTRATION OF APPLICATION (NCRF)

All applications shall be submitted in the name of owner except for extension of load cases, where the application may be accepted in the name of entity as per last paid bill Deviations only for industrial cases may be approved on case to case basis by GM FO, on valid reasoning.

3.1 Documents Required for Residential and Commercial Premises

3.1.1 New Connections

- 1) Completely and properly filled new connections application form by Owner.
- 2) Valid CNIC of Owner to be submitted. In the case of an expired CNIC a receipt from NADRA for renewal can be accepted alongwith the copy (if senior citizen 60 years and above validity/expiry of CNIC is not mandatory)
- 3) Authority letter for contract person if applicable along with Valid CNIC copy of NADRA Receipt for renewal
- 4) Photograph of Owner (optional for ladies)
- 5) At least 1 of the following ownership documents should be classed as sufficient to register an application at FO
 - a. Lease
 - b. Sub-lease

- c. Mutation
 - d. Goth Abad Scheme Documents (Form VII or Form II)
 - e. PT-1
 - f. Allotment form Mukhtiarkar
 - g. Transfer Order
 - h. Sale Deed with the complete chain of ownership documents
 - i. Allotment order
 - j. General Power of Attorney with the complete chain of ownership documents.
 - k. Undertaking of ownership (format vetted by legal department to be provided by FO to the applicant) only in the case of Kachi Abadies
- 6) Approved Building plan with covering letter of concerned authority and undertaking for deviation in building plan (applicable in above 120 sq. yard premises)—Exempted in CNG & Petrol Pumps OR Undertaking for non-submission of building plan.
 - 7) Approved layout or Site plan
 - 8) NOC of OGRA in Case of a CNG pump only
 - 9) NOC from Department of Explosive in case of Petrol Pump only
 - 10) NOC from the convened Civic Agencies in CNG or Petrol Pump or both.
 - 11) Nearest Electric bill or KESC Billing Account number

While arguing the matter, learned counsel for the KESC informed that the KESC cannot provide electricity meter to the plaintiff and referred to an internal policy, copy whereof has not placed in Court, and stated that now as per internal policy electric connection to every Marriage Hall should be given through 20 KW dedicated PMT. However, he has not disclosed as to when this policy has been implemented. Even he is not in a position to identify as to how many marriage lawns have been provided PMTs, therefore, the requirement of dedicated PMT as mentioned at Pages 141 of the policy manual and in the unidentified internal policy to deny electric meter to Plaintiff is mala fide. The plaintiff should not be discriminated with, as till date this policy has not been implemented

throughout Karachi. According to the learned counsel for the plaintiff, he has complied with all the required formalities and submitted all the required documents to the defendant, but KESC is still sending inflated bills without as proof of consumption to match the amount of bills. This desire of KESC to overbill the plaintiff should be checked only if the meter is installed. He has also submitted that all the required documents annexed with the plaint cover the requirement mentioned in Paragraph-3 of the KESC Policy Manual regarding new connection.

Learned counsel for the KESC has disputed that no such application has been filed by the plaintiff. The very fact that the KESC had installed a temporary connection, as shown from the admitted Annexure D-1, is enough to appreciate that application was made to get the meter installed on the premises of the plaintiff.

The perusal of the documents annexed with the plaint indicate that almost all the required documents, were sent to the KESC for installation of the meter in September 2009. Each and every document annexed with the plaint by now is available in the office of the KESC and even if it was not provided earlier at least with plaint, these documents have reached in the hands of KESC. Learned counsel for the KESC despite knowledge that the NOC has been provided by KMC as owner of the premises for installation of the electric meter at the premises insisted that these documents available with the KESC are not enough documents. He has raised the issue of "lease" of the premises as one of the requirement as item No.5 of paragraph-3 at page 165 of policy showing such requirement whereas the plaintiff has submitted a rent

agreement. The requirement of lease is not necessary in the facts of the case since NOC has been issued by the KMC as the owner of the premises for installation of meter at the premises of the plaintiff and therefore the insistence of the defendant for "lease" is just an eye wash and mala fide act on their part. Once the counsel of KESC realized that the requirement of documents is almost complete from the documents filed with the plaint, he argued that item No.6 of the requirement includes "approved building plan" of the premises but the same has not been provided by the plaintiff. Unfortunately the counsel for the KESC while referring to the need of "approved building plan" has not realized that the premises is an open Marriage Lawn and such premises are not required to have any building plan since there is hardly any building on the premises. Therefore, even the insistence of KESC to comply with the requirement of item Nos.6 & 7 is again uncalled for. The policy manual of KESC for dealing with its customers provides only a broad outline to be followed by staff in day to day affairs. It should be interpreted to facilitate its customers and not to use as tool for delaying in providing a necessity of life. Common citizens cannot be deprived of basic necessity of life even for one day on the pretext of strict compliance of policy manual. This court in the case of **Erum Heights Welfare Association versus KESC & others 2001 CLC 321** has already declared that "denial of Electric Power to the citizens might amount to infringement of right to life guaranteed under Article 9 of the constitution" In the facts and circumstances of the case, in my humble view the plaintiff has made out a case for installation of electric meter at the suit premises pending the other issues. It is hereby ordered that on the basis of documents already received by the

defendant/KESC with the plaint, the requirement of policy of KESC stand complied with, therefore, the defendant is directed to install electricity meter at the suit premises within (10) ten days from today on payment of required charges. Once the order was dictated the counsel for KESC has drawn my attention to some orders whereby the plaintiff was directed to furnish surety to secure KESC dues. The previous order regarding surety to be submitted by the plaintiff shall be examined after installation of the meter within (10) ten days time. If any order for furnishing surety has not been complied with by the plaintiff, consequence will be borne by the plaintiff.

JUDGE

MUBASHIR