

PRESIDENT'S SECRETARIAT (PUBLIC)
AIWAN-E-SADR, ISLAMABAD

Rep. No.314/WM/2021
Date of Decision: 26.01.2023

Muhammad Rahim

Vs

K-Electric

REPRESENTATION FILED BY MUHAMMAD RAHIM AGAINST THE ORDER OF THE WAFAQI MOHTASIB IN COMPLAINT NO. ONL/0005807/2021

Kindly refer to your representation addressed to the President in the background mentioned below:-

2. This representation has been filed by Muhammad Rahim (the complainant) assailing the order dated 08.07.2021 of the Wafaqi Mohtasib whereby it has been held as under:-

“...During the hearing, the Agency’s representative duly authorized to represent in the office of Wafaqi Mohtasib stated that K-Electric has taken notice of the matter and has filed case in the Utility Court which is sub-judice. The complainant got satisfied.

In view of the facts mentioned above, as the subject matter of the complaint is sub-judice before a court of competent jurisdiction; the case is closed in terms of Regulation 23(1) (j) of the Wafaqi Mohtasib (Investigation & Disposal of Complaints) Regulations, 2013.”

3. The complainant had alleged that he had applied the K-Electric (the Agency) for controlling/ Checking electricity theft by owners of 10 apartments of multistorey building above his house but to no avail. Feeling aggrieved, he approached the learned Wafaqi Mohtasib who passed the impugned order, hence the instant representation.

4. The case has been fixed for hearing on 05.01.2023 but none of the parties attended the hearing despite notice. The representation is being decided in view of Section 15 of the Federal Ombudsmen Institutional Reforms Act, 2013 which reads as under:-

“It shall not be necessary for the President or the Ombudsman to give personal hearing to the parties and the matter may be decided on the basis of available record and written comments filed by the Agency”.

The law thus empowers the decision of a representation without personal hearing of the parties, on the basis of available record. It is undoubtedly a case of that nature.

5. The Agency in its reply dated 03.01.2022 before this forum has stated a that there is an ongoing property dispute between the builder and the complainant, which does not pertain to the Agency but the complainant is liable for payment of outstanding dues if he claims ownership of the said plot; that the electricity meter registered in the name of Mst. Sughra Begum for residential purposes but the residents of the said building are using electricity through Hooks/ Kunda and the Agency compelled to send bill on the basis of connected load and as they are habitual defaulter and do not want to install individual regular meter because they have not paid the single penny to the Agency and at present an amount of Rs.2,322,591/- outstanding against the building/ premises on account of non-payment of monthly bills, last payment made by the complainant amounting to Rs.26,611/- as on 26.07.2019; that during the routine inspection by the Agency’s team, it has been transpired that builder of the aforesaid premises has started construction without submitting prior intimation to the Agency and avoided to change the tariff from Residential A1-R to Construction EI-R by adopting proper procedure and as for as the theft of electricity at the premises is concerned, a detailed survey has been carried out on 23.06.2021 and it was found that was disconnected from overhead and electricity is being used through hook from main Arial Bundle Cable and during the inspection, load was not allowed by the residents of multistory building; that the Agency has

already taken legal action and filed a criminal complaint before the Utility Court/ District & Session Judge (South), bearing complaint No.1108-2021, hence the question of not taking action against culprits has not wait; that the above referred electricity theft complaint was filed against Maroof and Aslam being builders and they are still involved in the affairs of building and its maintenance and the complaint is undertrial in the Utility Court and its next date of hearing is 14.01.2023; that a bailable warrant has been issued against the accused and the police is trying to arrest them in compliance of the court order; that the complainant Muhammad Rahim has also lodged FIR 215/2021 in Police Station, Clifton, Karachi against the same accused wherein alleging that the aforesaid accused is cheating with him; that the complainant has filed another complaint before the learned Wafaqi Mohtasib Karachi Regional Office having complaint No.KHI-9094-2022 and the same has been decided vide findings dated 26.12.2022 on the same ground that the matter is sub-judiced before the Utility Court vide case No.1108/2021 and that the learned Wafaqi Mohtasib has rightly passed the impugned order which may be upheld.

6. After perusal of record, it has been observed that the matter being subjudice before the Utility Court/ District & Session Judge (South), bearing complaint No.1108-2021. Section 9 (a) of the Establishment of the Office of the Wafaqi Mohtasib (Ombudsman) Order 1983 provides that the jurisdiction of the Mohtasib is barred where a matter is subjudice before a court of competent jurisdiction or tribunal on the date of the receipt of the complaint. The complainant had shown his satisfaction on the matter.

7. In such view of the matter, the learned Ombudsman has rightly declined to entertain the complaint which warrants no interference.

8. Accordingly, the Hon'able President has been pleased to reject the instant representation.

-Sd-
(Asghar Ali)
Director (Legal)

Mr. Muhammad Rahim,
R/o House No. A-29, Lower Gizri,
PNS Haider Gizri, **Karachi**.
(Contact No.0345-2799039)

The Chief Executive Officer,
Karachi Electric Supply Company,
K-Electric, Head Office, **Karachi**.

Copy to:

The Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Constitution Avenue,
Islamabad.