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IN THE COURT OF 4th ADDITIONAL DISTRICT JUDGE, U N A.

SPECIAL CIVIL SUIT (Electricity) No. 315/2016.
EX.-20.

PLAINTIFF :

Paschim Gujarat Vij Company Ltd.,
Supplying electricity having head office
situated at Rajkot and out of other offices
this division office situated at Una City.

V E R S U S

DEFENDANT :

Heirs of Late Mansukh Dana Babar,
(1) Manguben Mansukhbhai Babar,
Age : 55, Occupation : House hold,
(2) Himmatbhai Mansukhbhai Babar,
Age : 45, Occupation : Business,
(3) Rajubhai Mansukhbhai Babar,
Age : 42, Occupation : Business,
R/o Ramnagar Khara, Near Post Colony,
Tal : Una, Dist.: Gir-Somnath.

**Subject : Suit to recover the power theft bill amount of Rs.
3,831.40 Ps. U/S 50 of Electricity Act.**

- Ld. Advocate Mr. J.N.Bhatt for plaintiff.
- Ex-parte against the defendant.

:- J U D G M E N T -:

(1) The short facts given rise to the present suit are as under :-

The plaintiff company is came in existence by Gujarat Electricity Industry Re-organization and Regulation and Comprehensive Scheme, 2003. The defendant was the legal consumer of the plaintiff company vide consumer No. 87054003900 of domestic electric supply connection. The plaintiff has alleged that on dtd. **02/06/2014**, the officers of the plaintiff company was in the checking in the electric supply connection of the defendant and during checking it was found that the defendant was using the electricity unauthorized and consuming electricity illegally without permission of the plaintiff company and caught by doing power theft. Thereby, officers of the checking squad has done the legal procedure and prepared a necessary documents on the spot and issued the theft electricity bill of Rs. 3,328.08 Paise to the defendant. Thereafter on non payment of the said bill, plaintiff company has issued the legal notice to the defendant through advocate though has not given any heed to pay the bill of the plaintiff, hence it was compelled to file the suit against the defendant. Therefore, as per the rule of plaintiff company, if any body fails to pay the amount of bill within 15 days, then delay payment charges is to be charged. Thereby, defendant is responsible to pay the suit amount with D.P.C.. Therefore, plaintiff company has filed the suit to recover the due amount of Rs. 3,328.08 Paise including D.P.C. Rs. 503.32 Ps., Notice charge Rs. 00/- and in total Rs.

3,831.40 Paise with interest at the rate of 24% p.a. and pray to draw a decree in favour of plaintiff company.

(2) The notice has been issued and duly served upon the defendant, he has not appeared before the court personally and not asked time for engaging lawyer, though sufficient opportunities have been given but defendant neither appeared personally not through his advocate and no written statement has been filed by him. Hence, matter was ordered to proceed ex-parte against the defendant.

(3) Following issues are framed for the determination of the suit :-

- 1) Whether plaintiff company proves that the defendant has committed electricity theft, as narrated in the plaint ?
- 2) Whether the plaintiff company proves that company is entitled to recover amount of Rs.3,831.40 Ps. and interest thereon from the defendant as prayed in the plaint ?
- 3) Whether suit is instituted within time limits ?
- 4) What order and decree ?

(4) My findings of the above issues are as under:-

- 1) In the affirmative.

- 2) In the affirmative, at the rate of 6% per annum.
- 3) In the affirmative as per final order.
- 4) As per final order.

(5) To prove its case, the plaintiff has produced their ocular and documentary evidence as under :-

Oral Evidence :-

Ex.9	:	Affidavit for examination-in-chief under C.P.C., Order-18, Rule-4 of Amarsinhbhai Savdasbhai Zala, Dy. Engineer of plaintiff company.
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:- R E A S O N S :-

ISSUE NO. 1 TO 3 :-

(6) All the issues are inter connected to each other, so ergo with a view to avoid repetition, I discuss and decide above issues together.

(7) The plaintiff's officer has filed the affidavit in form of examination-in-chief at Exh.9 in support of plaint as per O.18, R.4 of C.P.C. and in such affidavit plaintiff's officer is supporting the facts of the plaint. The plaintiff's deposition in affidavit has not been cross-examined by the defendant. So the affidavit is supporting the facts of the suit. Plaintiff has produced documentary evidence like Rojkam, Checking sheet,

electricity theft bill, notice, etc, to prove its case vide Exh.11 to Exh.18. Hence, the plaintiff's documentary evidence and chief-examination of the plaintiff's witness are unchallenged from the defendant's side, therefore, there is no reason to disbelieve plaintiff's evidence.

(8) On perusal of the ocular and documentary evidence produced by the plaintiff company, it is proved that checking squad of plaintiff company visited at defendant's place on dtd. 02/06/2014 and have found that defendant had taken direct electric connection and was consuming the electricity. Defendant was not the consumer of the plaintiff company though using the electricity illegally. Thus the defendant has been found out dishonestly using, consuming and abstracting the electric energy and committed the act of theft of electricity. The checking squad has prepared a power theft bill of Rs. 3,328.08 Ps. and issued to the defendant but defendant has failed and neglected to make the payment of the same, hence, the suit is filed. Therefore, it is crystal clear that the defendant has committed the theft of electric energy and liable to pay the theft electricity bill of Rs. 3,328.08 Paise including D.P.C. Rs. 503.32 Ps., Notice charge Rs. 00/- and in total Rs. 3,831.40 Ps. with interest to the plaintiff company.

(9) Further, plaintiff company has prayed for compound interest at the rate of 24% p.a., but, in this suit between the parties there is no specific contract for interest therefore as per section 34 of C.P.C., plaintiff is entitled to get relief of the

interest at the rate of 6% on the due amount of the suit from the defendant.

(10) Therefore, in view of the above discussion, plaintiff company is entitled to recover the suit amount of Rs. 3,831.40 Ps. with simple interest at the rate of 6% p.a. from the date of filing of the suit till the realization of the suit amount from the defendant. And in view of my above discussion, I answer Issue Nos. 1 to 3 accordingly and for Issue No. 4, following order requires to be passed.

-:: ORDER ::-

- The plaintiff's suit is allowed.
- The plaintiff is entitled to recover the suit amount Rs. 3,831.40 Paise (Rupees Three Thousand Eight Hundred Thirty One and Forty Paise Only) with simple interest at the rate of 6% (Six percent) per annum from the date of filing of the suit till the realization from the defendant.
- The defendant do pay the costs of the plaintiff's suit and bear his own costs.
- Decree be drawn accordingly.

Pronounced in open Court today on this 15th day of DECEMBER, 2018.

Date : 15/12/2018.

Place: Una.

[S.L.Thakker]
Special Judge (Electricity) &
4th Additional District Judge, Una.
U.Id.No.GJ.00588.