

Received on:-

Registered on:-

Decided on:-

Duration :- Y. M. Days.

In the court of the 6th Additional District Judge, Bhavnagar at Mahuva

Spl.Civil suit (Electricity) No.280/2017

Ex. _____

The Paschim Gujarat Vij Co. Ltd.,
A company established for
supply of electricity,
Head office at Rajkot
Through one of its sub division office,
Jesar. Dist. BhavnagarPlaintiff

Versus.

Popatbhai Mulubhai
Age : Adult, Religion: Hindu
Residing at Shevdivadar,
Ta. Palitana Dist. Bhavnagar ...Defendant

Subject : Suit for recovery of Rs.10,778.59

Ld. Advocate Mr. K.R.Maheta for the plaintiff
Defendant though served remained absent hence exparte.

= J U D G M E N T =

- 1) Plaintiff has filed the present suit for recovery of
Rs.10,778.59 paisa along with the cost and interest from the
defendant as prayed for in para-9 of the plaint.

- 2) The brief facts of the plaintiff's case are as under :-
- 3) That the plaintiff is a Paschim Gujarat Vij Company Limited, (P.G.V.C.L. for short) established as per the section 5 of the Gujarat Electricity Supply Act before its conversion into P.G.V.C.L.
- 4) That it is the further the case of the plaintiff company that as on 12/01/2016 of the plaintiff company carried out surprise checking of the house of the defendant and during surprise checking it is found that defendant was extracting electricity by hooking from the plaintiff company's L.T. line pole illegally and, therefore, the plaintiff company had issued bill of Rs.8,701.31 to the defendant and in spite of repeated request made by the plaintiff company to the defendant for the payment thereof and even after issuing of the legal notice to the defendant for the payment thereof, defendant had failed to make the payment of the bill in question and, therefore, the defendant is liable to pay the amount of delay payment charges along with notice fee to the plaintiff company. So in all defendant is liable to pay Rs.10,778.59 plaintiff company as stated in the plaint. But defendant has not made any payment of the said amount to the plaintiff company, hence plaintiff company is constrained to file the

present suit for recovery of amount stated in the plaint along with the cost and interest.

5) That in this matter though the suit summons was duly served upon the defendant, defendant has not appeared in the matter, therefore, suit is ordered to be proceede exparte againts the defendant. by passing an below Exh.-1.

6) On considering the pleading, oral and documentary evidence of the plaintiff following points for defermination have been arisen for deciding the present suit.

1. Whether plaintiff proved that the defendant had committed theft of energy as alleged in para-4 of the plaint ?
- 2 Whether the plaintiff company prove that the defendant is bound to pay Rs.10,778.59/- the head as mentioned in para-7 of the plaint?
- 3 Whether the plaintiff company is entitled for decree as they claimed?
- 4 What order and decree ?

7) My findings on the above issues with the reasons are as under:-

1. In the affirmative.
2. In the affirmative.
3. Partly in the affirmative
4. As per final order.

8) That in this matter in order to prove the suit, the plaintiff company has produced following oral as well as documentary evidence.

Oral Evidence

Deposition of Dy. Engineer of plaintiff company Mr. Govindbhai

Mangalabhai Visat Exh.7.

Documentary Evidence

Ex. 9	A copy of proforma-12
Ex. 10	A copy of Cheking Sheet
Ex. 11	A copy of Rojkam prepared at the spot
Ex. 12	A copy of Provisionl theft Bill
Ex. 13	A copy of Legal Notice
Ex. 14	postal department acknowledgement
Ex. 15	A copy of Seizure Memo
Ex. 16	Closing pursis

- 09) That in this matter the defendant has been duly served but he has not chosen to contest the suit by filing written statement.

REASONS

Issues No. 1

- 10) That in this case in order to prove the contents of the plaint Exh.1 on behalf of the plaintiff company one Mr. Govindbhai Mangalabhai Visat, Dy. Engineer of Jesar sub Division P.G.V.C.L. Sub division Jesar P.G.V.C.L office has deposed on oath at Exh.7 wherein he has reiterated the facts stated in the plaint and the deposition of the plaintiff is not challenged by the defendant though he had given an opportunity to challenge the same. Further more, the plaintiff company has also produced documentary evidence vide Exh. 9 to 15 in support of their suit. Plaintiff Dy. Engineer Mr. Govindbhai Mangalabhai Visat has examine himself on oath wide ex-7. So looking to the oral

evidence of the Dy. Engineer, Sub Division, Jesar along with the documentary evidence produced by the plaintiff company, it appears that the on the date of the surprise checking defendant was found to have been extracting electricity by hooking illegally from the electricity pole of the plaintiff company and, therefore, plaintiff company had issued bill of Rs.8,701.31 and Plaintiff company has also issued legal notice to the defendant for the payment thereof. But defendant has failed to make the payment thereof and, therefore, the defendant is also liable to pay delay payment charges as well as notice fee to the plaintiff company as stated in the plaint and deposition of the plaintiff. Though Opportunity have been afforded to the defendant to file his W.S.. But he has not chosen to file his W.S. and thereby to contest the plaintiff suit. Further more, defendants has not cross examined plaintiff. So oral testimony of plaintiff is not challenged by way of cross examination. Plaintiff is a authorized officer of the P.G.V.C.L. to file suit on behalf of the vij company. So according to my opinion plaintiff has successfully proved that plaintiff company is entitled to recover Rs.10,778.59 from the defendant. Hence I answer the issue No.1 in the affirmative.

Issues No. 2

11) Plaintiff is supplying electricity to their consumers. Their

accounts are also being audited. Defendant has illegally committed theft of electricity thereby he has pilfered the electricity. Plaintiff is a commercial organization. That as discussed plaintiff is involved in commercial activity of supplying electricity, defendant has failed to make the payment to the plaintiff on the suit amount in spite of issuing of legal notice it would be just and proper to award 9% interest on the suit amount to the plaintiff that would meet the end of justice. Hence I award 9% interest to the plaintiff on the suit amount and accordingly I answer issue No.2 partly in the affirmative.

- 12) That in view of the detailed discussion made here in above in issue No. 1, plaintiff company is entitled to recover Rs.10,778.59 from the defendant along with the interest at the rate of 9% from the date of filing of the suit till its realization and, accordingly suit of the plaintiff is required to be partly allowed and, therefore, I pass the following final order.

ORDER

- 1 The present suit of the plaintiff P.G.V.C.L. is hereby partly allowed with costs.
- 2 The plaintiff company is entitled to recover Rs. 10,778.59 (Rupees Ten Thousand Seven Hundred Seventy Eight and Fifty Nine Paise only) together with costs and interest at the rate of 9% p.a. from the date of filing suit till its realization from

the defendant.

- 3 The defendant is ordered to pay the cost of suit to plaintiff company.
- 4 Plaintiff is entitled to recover the decree amount from the person and property of the defendant.

Decree to be drawn accordingly.

Pronounced in the open Court to-day on this 21st day of April, 2018.

Mahuva
Date : 21-04-2018

(Jayeshkumar Thakorlal Shah)
6th Additional District Judge
Mahuva, Bhavnagar,
Code : GJ00506