



Suit Instituted On: 27/08/2024

Suit Disposed On : 13/05/2026

Duration: 01 years, 08 Months, 16 Days

IN THE COURT OF ADDITIONAL CIVIL JUDGE
(MR. R. A. CHAUHAN), AT ANKLESHWAR

REGULAR CIVIL SUIT NO. 132/2024

EXH. 20

In the matter of :-

**Deputy Engineer (DGVCL)
(Rural Sub Division)
Under the Over bridge,
Nr. ONGC Workshop,
Ankleshwar, Dist. Bharuch.**

Plaintiff

:: Versus ::

**Patel Shamalbhai Ambalal
Old Borbhatha bet,
Ta. Ankleshwar, Dist. Bharuch**

Defendant

APPEARANCES:-

For the Plaintiff Company : Ld. Adv. Mr. P. P. Solanki

SUIT FOR RECOVERY OF RS. 80,309.47/-

J U D G M E N T

1. The plaintiff facts of the plaintiff company's suit are as under:

The plaintiff is engaged in the activities of supplying the electricity to their consumers in name of Daxin Gujarat Vij Company Ltd. and having its main corporate office at Surat and its sub-division offices are located in various places, out of which one of sub-division office is located at Ankleshwar.

- I. The defendant is residing at above mentioned address in the plaint and defendant is not the consumer of the plaintiff company. On 16/02/2022, the vigilance officer of the plaintiff company carried out an inspection and during that inspection, it was found that though the defendant was not consumer of the plaintiff company, he was getting the electric supply from the L. T. line by using 10 meter long wire and the defendant was caught red-handed by the officer. Hence, the officer of the plaintiff company prepared Annexure 1 at the spot and got the signature of the defendant on it. Thus, the defendant was not consumer of the plaintiff's company and though he was using the electricity of the plaintiff's company illegally. The plaintiff has also lodged an FIR dated 17/02/2022. Further, the plaintiff had issued a theft bill of Rs. 58,674.08/- + Rs. 21,635.39/- as the interest and the other charges. The defendant had not paid the said amount. Thus, the plaintiff had to recover the total amount of Rs. 80,309.47/- from the defendant. Hence, plaintiff has filed this suit for the recovery of said amount.
2. The summons was issued by the court to the defendant and it was served on the defendant. Despite reasonable opportunities, the defendant or any pleader on behalf of the defendant did not appear before the court or did not

file Written Statement or take any defence against the suit. Hence, the court passed an order below Exh. 5 to try the suit 'ex-parte' against the defendant.

3. ISSUES :

The issues were framed vide Exh. 6, which are as under :

Issue No. 1 : Whether the plaintiff proves that defendant is liable to pay an amount of Rs. 80,309.47/- to plaintiff's company?

Issue No. 2 : Whether the plaintiff proves that they are entitled to get interest at rate of 18% per annum on the claimed amount?

Issue no 3 : Whether the Plaintiff is entitled to get the relief as prayed for?

Issue no 4 : What order and decree?

4. FINDINGS :

My findings to the above issues are as under :

Issue No. 1 : In affirmative

Issue No. 2 : Partially affirmative

Issue No. 3 : Partially affirmative

Issue No. 4 : As per final order

5. PLAINTIFF'S EVIDENCE :

To prove the fact of this suit, the plaintiff has submitted the following oral as well as documentary evidence on record.

ORAL EVIDENCE

Sr. No.	PARTICULARS	Exh.
1	Examination-in-Chief by way of Affidavit of Deputy Engineer of plaintiff company Mr. Abhilash Balasubramanian Nair	8

DOCUMENTARY EVIDENCE

Sr. No.	PARTICULARS	Exh.
1	APPROVAL LETTER	12
2	F. I. R.	13
3	PERFORMA NO. 12	14
4	CALCULATION SHEET OF D.P.C.	15
5	STATEMENT OF CUSTOMER	16
6	SUPPLEMENTARY BILL	17

Plaintiff has not produced any further evidence and filed closing pursis vide Exh. 15.

I have heard Ld.Advocate on behalf of the plaintiff Company. I have perused the records and proceedings and also perused the oral as well as documentary evidence produced on record.

6. REASONS

The reasons for the above findings are as under :

7. FOR ISSUE NO 1:

The burden to prove this issue lies on the plaintiff, Abhilash Balasubramanian Nair. who is Deputy Engineer of Plaintiff-company has filed the affidavit vide

Exhibit 8 wherein he supported the facts of the plaint and deposed that suit amount of Rs.80,309.47/- is due from the defendant. This Court has gone through the entire oral evidence as well as documentary evidence. On the other hand despite successful service of summons and reasonable opportunities given by this court, the defendant did not file a Written Statement and did not take any defence against the suit of the plaintiff. Plaintiff has produced oral evidence vide Exh. 8. As defendant has not taken any cross-examination of plaintiff, there is no reason to disbelieve facts of oral evidence of plaintiff. Plaintiff has also produced documentary evidence in support of his case, on perusal of documentary evidence, plaintiff has produced statement of customer qua defendant vide Exh. 16. Plaintiff has produced supplementary bill for theft vide Exh. 17. Plaintiff has produced FIR for theft incident vide Exh. 13, further, plaintiff has produced DPC calculation sheet vide Exh. 15 and proforma 12 vide Exh. 14. Thus, in view of oral as well as documentary evidence produced by plaintiff, I answer to issue no. 1 in affirmative.

8. FOR ISSUES NO 2 :

The plaintiff has claimed the interest on the outstanding amount at a very high rate i.e. @ 18 % interest. After carefully perusing the provision of Section-34 of The Code of Civil Procedure, 1908, it appears that the interest may conveniently be divided into three categories : first, interest prior to institution of suit, second, interest from the date of institution of suit to the decision of the suit and third, interest from the date of the decree till it's realisation. So far as the first category is concerned, Section-34 does not apply to interest prior to the institution of the suit and it can be awarded only when there is an agreement between the parties or mercantile usage having force of law or statutory right to interest. The matter of granting interest before institution of suit is a matter of substantive law and Section-34 shall have no application to such interest. In

this case, the plaintiff has calculated 18% percent interest on the amount due but there is no contract to pay 18 percent interest between plaintiff and defendant so that the plaintiff is not entitled to 18 percent interest. This court is of the opinion that it would be legal, just and appropriate to consider the trend of economic and current effective rate of interest and thus the plaintiff becomes entitled to get 6% interest per annum from the date of institution of the suit till the realisation.

9. FOR ISSUES NO 3 & 4 :

Hence, in view of the above discussion, the following final order is passed in the interest of justice.

:: ORDER ::

1. This suit is partly allowed.
2. Defendant is hereby ordered to pay an amount of Rs. 80,309.47/- along with 6% interest per annum from the date of institution of this suit till the realization of decree to the plaintiff.
3. The defendant is ordered to pay costs of this suit to the plaintiff and to bear his own, if any.
4. Decree to be drawn accordingly.

Pronounced and signed in the open court today on the day of 13th May, 2026.

**Date : 13/05/2026
Ankleshwar.**

**Ronit Amrutbhai Chauhan
Additional Civil Judge
Ankleshwar
(UID : GJ01747)**