

Received On :- 13.08.2024
Registered On :- 13.08.2024
Decided On :- 11.11.2024
Duration :-
Y - M - D

**IN THE COURT OF ADDITIONAL CIVIL JUDGE,
AT. PALITANA, DISTRICT: BHAVNAGAR**

Regular Civil Suit No. 600/2024
Exh.

Plaintiff :- **Paschim Gujarat Vij Co. Ltd. (PGVCL)**
It is constituted under Gujarat electricity Industries
(Re-Organization and Regulations) Act, 2003 and
its registered head office is situated at Laxminagar,
Rajkot. **Through:- Its Deputy Engineer (O & M),
Rural Town Sub-division, Palitana**

Versus

Defendant:- Vaghela Labhuben Bhagwanbhai
Aged : Adult,
Residing at:
Village : Bhilvas, Garajiya road,
Palitana, District : Bhavnagar

Appearance :- Mr. J. M. Gohil, Learned Advocate for the plaintiff.
Ex-parte against the defendant.

Subject :- Suit for recovery of Rs. 19630-52 paisee.

// J U D G M E N T //

1. The plaintiff has filed the present suit for the recovery of **Rs.19630-52 paisee** against the defendant with **18%** interest per annum. And if the defendant defaults, the said amount be recovered from the movable and immovable properties of the defendant. The costs of the suit be awarded from the defendant.
2. The case of the plaintiff in brief is that the, the plaintiff company is a company constituted under Gujarat Electricity Industries (Re-Organization and Regulation) Act-2003. Plaintiff company is doing the business of electricity generation and distribution and for convenience of administrative work structure of Circle Office, Division Office and Sub-division offices are framed. Plaintiff company filed this suit through **Deputy Engineer of Palitana Town Sub Division** and he knows all the facts of plaint and he is the responsible and authorized officer of his sub division.
3. That the defendant herein has never preferred any application with the plaintiff company for availing any electricity connection, however, while checking conducted by the officials of the plaintiff company on **23.05.2023**, it was found that the defendant was using electric energy illegally, and hence, a supplementary bill, including D.P. charges for **Rs.19630-52 paisee** was issued by the officials of the plaintiff company to the defendant. But the defendant has not cared to repay the said amount to the plaintiff company. Therefore, the plaintiff company has served the legal notice to the defendant demanding the suit amount, even though, the defendant had not repaid the amount. Ultimately, the plaintiff company is compelled to file the present suit against the defendant for recovering the outstanding amount.
4. On presentation of the suit, the summons was issued in favour of the defendant. In pursuance to the summons, neither the defendant nor his Advocate has remained present before the Court, and therefore, this Court has passed ex-parter order against the defendant.
5. In order to prove his case, the plaintiff side has led the following oral as well as documentary evidences in their support.

ORAL EVIDENCES		
Sr. No.	Particulars	Exhibit Nos.
1.	Examination-in-chief of J. P. Makwana, Deputy Engineer, PGVCL, Palitana Town Subdivision.	7

DOCUMENTARY EVIDENCES		
Sr. No.	Particulars	Exhibit Nos.
1	Performa - 12.	9
2	Yadi to FIR	10
3	Supplementary bill	11
4	Bill compounding charges.	12
5	Assessment bill	13
6	Rojkam	14
7	Annexure -4	15
8	Inspection report.	16
9	Legal notice.	17
10	FIR	18
11	Calculation sheet.	19

6. The learned Advocate for the plaintiff has moved his closing pursis vide **Exh. 20** and advanced oral arguments.
7. The following issues have been framed by the learned Predecessor Judge for the final disposal of the suit;
 1. Whether the plaintiff proves that he is engaged in the supply of electric energy and he is entitled for the recovery of **Rs.19630-52 paisee** from the defendant, who uses the electricity illegally, as non-consumer?
 2. Whether the plaintiff is entitled to get the relief as prayed for?
 3. What order and decree?
8. My finding to the above-mentioned issues is as under;
 1. In affirmative.
 2. In affirmative.
 3. As per final order.

// R E A S O N S //

9. As per the facts of this case plaintiff company is constituted Limited Company under Gujarat Electricity Industries (Re-Organization and Regulation) Act-2003 and its business is electricity generation and distribution. This suit is filed by Deputy Engineer of **Palitana Town sub division** but no authority letter was submitted by the signatory of the plaint. As per record of this case, no authority or power of attorney was submitted from the side of plaintiff for filing this suit. Status of legal body is fictitious and legal body works through living persons. On seeing the provisions of law, plaintiff company filed this suit as per order 29 of Civil Procedure Code.

As per per order 29 rule1 CPC, that in a suit by against a corporation the Secretary or any Director or other Principal officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. As per Judgment of **Hon'ble Supreme Court in, United Bank of India v. Naresh Kumar and ors., 1996(7) Supreme 301**, has held that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue of the office which he holds, sign and verify the pleadings on behalf of the corporation. Whereas Hon'ble Orrisa High Court in Umesh **Chandra Misra vs State Bank of India and Anr. AIR 1987 Ori 67** held, that if suit is filed in the name of Bank and plaint being signed by Branch Manager then it is not a defect indicated under Order 29 Rule 1.

In this case on hand neither any authority letter nor any power of attorney was submitted but the suit which is filed is in the name of plaintiff company and filled by the Deputy Engineer and as per law he is the principal officer of the concerned sub division and is able to depose the facts of the case. So, even without formal authority or power of attorney, this Court is of the view that Deputy Engineer of the concerned sub division is fully competent to file this suit and also able to verify the plaint and also able to depose the facts of the case.

10. The solitary witness namely **Mr. J. P. Makwana**, Deputy Engineer, PGVCL, Rural Sub Division, is examined vide **Ex.7** and he has

reiterated the contentions of the plaintiff. However, it would be sufficed to say that during the said examination he has proved list of documents at **Exh. 9 to 20**. Considering the fact that the defendant has neither appeared personally nor through his duly instructed advocate and not filed any written statement, the contentions of the plaintiff as well as the examination-in-chief have remained unchallenged, and hence, there is no reason to disbelieve the same.

- 12.** Upon conjoint reading of the said examination-in-chief as well as the documentary evidence, it is apparent that the defendant was not a consumer of the plaintiff company as contended. From the total evidence produced on record, it is apparent that an amount of **Rs.19630-52 paisee** is outstanding towards illegal consumption of electricity and despite being called upon, the defendant has defaulted in making payment thereof. Therefore, the Issue No.1 and 2 answered in affirmative.
- 13.** The plaintiff has claimed interest at the rate of **18%**. However, the plaintiff has failed to substantiate the said claim or even stated the grounds upon which the same has been claimed. However, taking the entirety of the case along with the prevailing interest rates into consideration, it is desirable that the plaintiff be granted interest at the rate of **6% p.a.** on the outstanding amount from the date of suit till its realization. Hence, in the interest of justice, I pass the following order:

// O R D E R //

1. The present suit stands partly allowed.
2. The plaintiff Company is entitled to recover the due amount of electric theft bill of **Rs.19630-52 paisee** with **6%** interest from the date of filing of suit till its realization.
3. The defendant is directed to pay the costs of the plaintiff's suit.
4. Decree be drawn accordingly.

Pronounced in the open court today on this day of 11th November, 2024.

Date : 11.11.2024
Place : Palitana
Self

(Ritesh V. Patel)
Addl. Civil Judge, Palitana
GJ01686