

Commercial Appeal No.	12 of 2024
-----------------------	-------------------

1

Commercial Appeal No.	12 of 2024
-----------------------	------------

::: ORDER BELOW EXHIBIT -1 :::

1-Present Appeal has been preferred by original defendant under being aggrieved and dissatisfied by impugned judgment and decree dated 28/02/2022 passed by the Court of learned Commercial Judge and Principal Senior Civil Judge, Jamnagar in Regular Civil Suit (Commercial) No.942 of 2019 by which suit of the plaintiff was allowed.

2- Brief facts of the plaintiff's suit is that he is consumer of defendant and filed suit seeking relief that electricity theft bill of Rs.3,48,443/- dated 17/06/2006 issued in respect of consumer No.32102/06498/0 against defendant is illegal and void and that defendant be directed to refund the said amount of bill alongwith interest.

3- On perusal record and proceedings of Regular Civil Suit (Commercial) No.942 of 2019, it appears that originally recovery suit was filed by plaintiff, which was originally numbered as Regular Civil Suit No.195 of 2009. It further appears from record that, learned trial Court had proceeded in suit proceedings as per regular recovery suit but at the time of pronouncing the Judgment and decree, there is mention in title as Regular Civil Suit (Commercial) No.942 of 2019. However, no proceedings took place as per Commercial Act, no 12/A process undertaken. Under this circumstances, impugned judgment and decree of the trial Court is required to rectify accordingly.

“151- Saving of inherent powers of Court :- Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.”

152- Amendment of judgments, decrees or orders :- Clerical or arithmetical mistakes, in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.”

4- Learned advocate Mr.Rachchh has stated that learned trial Court ought to have pronounced the Judgment and decree as of recovery suit because present suit does not fall within the ambit of Commercial Court Act. Learned Advocate Mr.Mehta for appellant has also no objection with this regard and stated that correction is required. Hence, following order is passed with this limited purpose without entering into the merits of the case accordingly.

FINAL ORDER

1. Principal Senior Civil Judge, Jamnagar is hereby directed to carry out such amendment or rectification in category of number of suit, i.e. Regular Civil Suit (Commercial) No.942 of 2019 and convert and renumbered it as Regular Civil Suit, within a period of **One month** from receipt of this order. And then send back record of said case.

2. It is made clear that, this is nothing but administrative function, a typographical correction, hence no notice is required to be issued to any party.

3. It is required to note that, meanwhile, present appeal would remain pending for hearing.

4. The Record and proceedings of the Regular Civil Suit (Commercial) No.942 of 2019 be sent back to the learned Trial Court along with one true copy of this order immediately.

This order is pronounced and signed in the open Court on this 17th day of March-2025 under my hand and seal.

Date: -17/03/2025

Place: - Jamnagar.

A J RAVAL/PS

(Nehalkumar Rajeshbhai Joshi)

Principal District Judge, Jamnagar

Code No.: GJ01318