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05 06 00

Exh. No.

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IN THE COURT OF PRINCIPAL CIVIL JUDGE AT : KALAVAD

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Reg. Civil Suit No. 127/2025

P.G.V.C.L.,

Through:- Deputy Engineer,
West Sub-Division, Kalavad, Dist. Jamnagar.

...PLAINTIFF

Versus

1. Sumarbhai Hajibhai Sama

Age : 55 Yrs.
Resident of:- Hansthal, Ta. Kalavad
Dist. Jamnagar.

...Defendant

Advocates :

*Ld. Advocate Mr. P.D. Jadeja for the plaintiff
Suit proceeded ex-parte against the defendant*

SUBJECT: SUIT TO RECOVER AMOUNT of Rs. 31,047-73 Paise

:: JUDGMENT ::

1. That, the present suit has been filed by the plaintiff company against the defendant, inter alia praying for the recovery of Rs. 31047-73 paise with the interest @ 16 % p.a. The brief facts of the plaintiff suit are as under :

1.1 That, the plaintiff is a company incorporated under the provisions of The Gujarat Electricity Industries (Reorganization & Regulation) Act, 2003 and working in the Western side of the Gujarat region. The name of the plaintiff company is Pashchim Gujarat Vij Company Limited, herein-after

referred as plaintiff vij company for short. The plaintiff company has filed the present suit through its D.E. The plaintiff company further pleads that they are dealing in energy sector and has been distributing electricity to their various customers for domestic as well as commercial purpose within their jurisdiction.

1.2 The plaintiff vij. company further pleads that the defendant is not its customer. It is further pleaded by the plaintiff company that, its officers have carried out a checking at the place, where the defendant is residing and found the defendant indulging in an illegal activities of theft of electricity and have raised a bill for an amount of Rs. 31,047-73 ps.

1.3 It is further pleaded that the concerned checking team initiated necessary action against the defendant by preparing necessary documents by which it reveals that the defendant had made neutral connection direct and took the connection from the electric pole and thus, he has committed theft of electricity and hence, that connection was disconnected and legal notice was given on dated 17.08.2024 through R.P.A.D. and till today no any amount has been paid by the defendant hence, the plaintiff Vij. Company is compelled to filed the present suit to recovery the amount of Rs. 31047-73 ps. with the interest of @ 16% per annum from the defendant.

2. That, the summons of the plaint is duly served upon the defendant as per the provisions of O.5 of the Code of Civil Procedure, 1908 (in short "Code"). The defendant neither presented himself personally nor through Ld. Advocate and nor submitted any written reply. Hence, the matter was ordered to be proceeded ex-parte against the defendant by the then Presiding Officer on dated 29.12.2025. Thus, the suit is remained un-contested by the defendant side.

3. On the basis of the pleading of the plaintiff, issues have been framed by the then Hon'ble Court at Exh. 7, which are as under in verbatim language :-

- 1 શું વાદી સાબિત કરે છે કે, આ કામના પ્રતિવાદીએ વીજચોરી કરેલ છે ?
- 2 શું વાદી સાબિત કરે છે કે, તેઓ આ કામના પ્રતિવાદી પાસેથી વીજચોરીના બાકી બિલની રકમ રૂ. ૩૧,૦૪૭-૭૩/- પૈસા વસુલ મેળવવા હકકદાર છે ?
- 3 શું વાદી પુરવાર કરે છે કે, તેઓ પ્રતિવાદી પાસેથી દર માસે દર સેકન્ડે ૧.૫ % પ્રમાણે વ્યાજની રકમ વસુલ મેળવવા હકકદાર છે ?
- 4 શું વાદી માંગ્યા મુજબની દાદ મેળવવા હકકદાર છે ?
હકકદાર છે ?
- 5 શું હુકમ અને હુકમનામું ?

4. Findings to the above referred issues are as under :-

1. In affirmative
2. In affirmative
3. In partly affirmative, @ 6 % p.a.
4. In partly affirmative
5. As per final Order.

5. Evidence led by the party in the proceedings are as under :-

PLAINTIFF SIDE :-

Exh. Particulars of Witness

Exh. 7 Affidavit of examination-in-chief D.E. Dineshbhai Devabhai Bharvad

DOCUMENTARY EVIDENCE:

Exh. 13 True copy of Proforma-12.

Exh. 14 True copy of checking sheet

Exh. 15 True copy of Rojkam.

Exh. 16 True copy of Annexure-4

Exh. 17 True copy of Gatepass

Exh. 18 True copy of Certificate u/s BSA 63(4)(C)

- Exh. 19 True copy of Forwarding letter for filing complaint.
- Exh. 20 True copy of FIR
- Exh. 21 True copy of Annexure C
- Exh. 22 True copy of supplementary Bill
- Exh. 23 True copy of Forwarding letter Bill given to Defendant
- Exh. 24 True copy of Acknowledgment Slip of Registered AD.
- Exh. 25 True copy of FIR of GUVNL Police Station C.R. No. II-2099/18
- Exh. 26 True copy of FIR of GUVNL Police Station C.R. No. II-2312/22
- Exh. 27 True copy of C.G.L. Abstract on Plaintiff.
- Exh. 28 True copy of Calculation sheet of interest.
- Exh. 29 True copy of Certificate of Electricity Charges.
- Exh. 30 True copy of Legal Notice
- Exh. 31 True copy of Brief Note
- Exh. 32 True copy of Circular
- Exh. 33 True copy of Approval for filing suit against Plaintiff.

Defendant's side:-

The defendant has neither appeared nor submitted any documentary evidences nor oral evidences in support of his case.

6. Heard the arguments made by the Ld. Adv. Mr. P.D.Jadeja for the plaintiff-vij. co.
7. The defendant did not adduce any evidence in the Court, however, the burden to prove the case is totally on the shoulder of the plaintiff, because *it is very well settled principle of law that the party has to prove his case on his own strength and can not take advantage of weakness of the opposite party.* So, in the light of

above referred principle, this Court scrutinized the entire pleading, evidence and argument raised by Ld. Advocate for the plaintiff with microscopic view.

REASONS

ISSUE No. 1 :- (*As to theft of electricity*)

8. Issue No.1 is related with the theft of electricity. In the affidavit of evidence filed u/O.18 Rule IV of the Code by Deputy Engineer Dineshbhai Devabhai Bharvad wherein it is clearly mentioned that the defendant had committed the electricity theft by adopt illegal means that is obtained the direct connection from the electric pole, hence checking sheet was prepared by the concerned officer which is produced at Exh.14, Rojkam was also prepared at the spot and is mentioned at Exh.15, signatures in this documents have identified by the witness in his affidavit and it also reveals that necessary bill and notice has been issued upon the defendant which can be seen from the document at Exh. 22 & 30 respectively. Further, the electric wire which was used in the electricity theft has also been seized by the concerned officer which can be seen from the Annexure-4 which is produced at Exh. 16, all these things have been mentioned in the affidavit by the witness who is serving as Deputy Engineer in the sub-Division and nothing to do with the defendant i.e. he has no any ill will or prejudiced with the defendant on the contrary he has given deposition on or in the capacity of discharging/public duty. No any facts have been challenged by the defendant and therefore, there is no reason to disbelieve the said version, hence, it is prove that the defendant has committed theft of electricity and Issue No.1 is answered 'In Affirmative'.

ISSUE No. 2 :- (*On the point of due amount*)

9. The Issue No.2 is about the due amount of Rs. 31,047-73 ps. As it is proved that the defendant has by adopting illegal means, committed theft of electricity and necessary documents have been prepared at the spot and on the basis of these documents, brief note has been prepared [Exh.31], approval for filing suit against the non-consumer is produced vide Exhs. 33, Proforma No.12 is produced vide

Exh. 13, which shows the amount of Rs. 31047-73 ps. More particular document is calculation sheet [Exh.29], wherein various amount has been described under various heads and finally it shows the due amount. For which, letters were given to the deft. by the plaintiff vij co. to pay the said dues [Exhs. 23 & 30]. In failing which necessary procedure to prosecute the deft. has been adopted by the plaintiff vij co. which can be seen from the letter & F.I.R. [Exh.19 & 20]. All these documents are produced by the P.W.-1 Mr. Dineshbhai Devabhai Bharvad on oath working in the capacity of Dy. Engineer of the plaintiff vij co. and nothing is challenged nor rebutted by the defendant. From these facts, it is proved that Rs. 31,047-73 ps. is due against the defendant hence, Issue No.2 is answered "In Affirmative".

1.

ISSUE No. 3 & 4:- *(on the point of rate of interest)*

11. The plaintiff has prayed for interest @ 16 % p.a. in his relief. Looking to the present transaction and documents produced, there was no any document or contract which suggest any rate of interest had been fixed between the parties, therefore, this court has to adopt the prevalent conditions made by R.B.I. Also as per the S.34 of Civil Procedure Code, when there is no specific contract between the parties regarding the payment of interest, the court is in discretion to grant the interest. As per judgment passed in the case of "Anshumansinh Vs. State of UP & others reported in 2004(3) CCC 19 Allahabad", wherein it is held that the Interest if not allowed on payment due, then even a losing party actually wins the case. But, in the same way, the plaintiff vij. company has not produced any certain specific document, hence, the plaintiff has not discharged its burden to that effect. Therefore, at this stage, this Court is not in a position to award the said rate of interest. Therefore, the plaintiff company is entitled to get the dues with interest @ 6% from the date of the suit. Hence, this issue is answered 'In Partly Affirmative'.

12. After hearing the arguments of the Ld. Advocate for the plaintiff, evidence &

findings to the issue Nos.1 to 4, this Court passes the following final order to the Issue No. 5 in the interest of justice :

-:: O R D E R ::-

1. The suit of the plaintiff vij. company is hereby partly allowed.
2. It is hereby ordered that the defendant has to pay the due amount of Rs. 31,047-73 ps. (Rupees Thirty One Thousand Forty Seven and Seventy Three Paise Only) by person or property, with interest at the rate of 6 % p.a. from the date of institution of suit.
3. Defendant to bear the Costs of his own and also bear the cost of suit of the plaintiff.
4. Decree to be drawn accordingly.

Pronounced in the Open Court today on this 20th Day of April, 2026.

Place:- Kalavad
Date :- 20-04-2026

(Harshad Rajabhai Khamal)
Principal Civil Judge,
Kalavad.
Code : GJ01749.