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IN THE COURT OF SPECIAL JUDGE AMRELI AT :
AMRELI.

SPECIAL CIVIL SUIT (ELECTRIC) NO. 380/2017

Exh. _____

Plaintiff :

Paschim Gujarat Vij Company Limited,
Head office situated at Vadodara,
its division office at Amreli
and its one Sub-Division office is situate at
BAGASARA.

V/s.

Defendant :

Babubhai Madhabhai Makwana
Adult, Occupation : Agriculture,
Residing at : Nave Zanzariya,
Taluka : BAGASARA.

SUIT TO RECOVER RS. 7,300.06 Ps.

Appearances :

Mr. I. G. Bhatt, Ld. Advocate for the plaintiff
company.

For the defendant : Ex-parte.

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

1. The plaintiff is the self established
institution under the Gujarat Electricity

Industries Re-organization & Regulation Act, 2003. Head office of the plaintiff institution is situated at Vadodara of which one division office is situated at Amreli and its sub-division office is situated at village : Bagasara. The Plaintiff institution does work to supply electricity in the western part of Gujarat State. Under Gujarat Electricity Industries Re-organization & Regulation Act, 2003, estate, liabilities, assessment and recovery of Gujarat Electricity Board has been allotted to the plaintiff and Amreli district comes under its jurisdiction. The present defendant resides at **Nava Zanzariya** village of Bgasara Taluka of Amreli district and he is not legal consumer of the plaintiff company. That, on 30-07-2014, the checking squad of the plaintiff – company checked the house of the defendant in presence of the defendant and found that she was committing theft of electricity illegally, directly from L.T. Line passed nearby his house. At the place of occurrence the defendant's wife **Champaben Madhabhai Makwana** was present. Thus, the defendant was found indulging in power theft therefore, electricity connection checking

report was prepared and Rojkam was also prepared wherein the defendant has refused to set-forth his signature. Muddamal involved in the power theft were also seized. Thereafter, as per ABCD formula, a supplementary bill was given to the defendant in respect of power theft and also informed to pay the same in the office of plaintiff company, but the defendant has not paid any amount towards the power theft, therefore a notice **02-06-2017** was issued though, the defendant has not taken care to pay the said due amount. Therefore present suit has been instituted by the plaintiff company for recovery of the amount of **Rs.5,078.30 Ps. as principal amount + Rs.2,271.76 Ps. Towards D.P.C. Charge amount total comes to Rs.7,300.06 Paisa** from the present defendant with interest at the rate of 15% p.a. from the date of institution of the suit.

2. On filing of this suit, the defendant was duly served with the notice; but in spite of sufficient opportunities, he has not chosen to remain present, hence, as per the order dated 22-03-2018 passed below Ex.1, the matter has been proceeded ex-parte against the defendant.

3. To prove its case, the plaintiff has examined Mr. Jitendrabhai Ratilal Viradiya, Dy. Engineer, Sub-Division, Bagasara, vide Exh. 22 and produced following documentary evidences vide Exh.10 to 21 :-

Sr. No.	Particular of the document	Exhibit
01	Office Order	10
02	Proforma - 12.	11
03	Legal Proceedings certificate.	12
04	Rojkam.	13
05	Letter written to Police Inspector, GUVNL Police Station, Bhavnagar.	14
06	Annexure-12	15
07	Supplementary bill.	16
08	ABCD Calculation Sheet.	17
09	Electric connection checking report.	18
10	Rojkam.	19
11	Annexure-4.	20
12	F.I.R.	21

4. At the time of recording of oral evidence of the plaintiff company, the defendant remained absent and hence, her right to adduce evidence has been closed. In these circumstances, there is no evidence on record on behalf of the defendant.

5. Considering the facts, circumstances and evidence on record, the following issues have been framed by me vide Exh. 6 for determination of the present suit;

- [1] Whether the plaintiff proves that the defendant has committed electricity theft as alleged ?
- [2] Whether the plaintiff is entitled to recover Rs. 7,300.06 Ps. towards remaining dues of power theft from the defendant ?
- [3] Whether the plaintiff is entitled to recover 18 % p.a. interest as prayed for ?
- [4] Whether the plaintiff is entitled to get the relief as prayed for ?
- [5] What final order & decree ?

6. My findings on the above issues are as follows :

- [1] In affirmative.
- [2] In affirmative.
- [3] Partly in affirmative.
- [4] Partly in affirmative.
- [5] As per final order.

::: R E A S O N S :::

Issues Nos. 1 & 2 :-

7. Heard Ld. Advocate Mr. I. G. Bhatt for the plaintiff. He has submitted that plaintiff company has proved its case by oral and documentary evidence. All the documentary evidence are prepared in ordinary course of business of the plaintiff company. Officer of the plaintiff company has no enmity with the defendant, therefore, his version on oath can be relied on. No one remained present on behalf of the defendant to contest the present suit, therefore suit be decreed.

8. To find out substance in submission of learned advocate for the plaintiff, I think it proper to consider oral as well as documentary evidence adduced by the plaintiff. Plaintiff's witness Mr. Jitendrabhai Ratilal Viraiya, Dy. Engineer, Bagasara Sub-Division Barasara, has deposed on oath at Exh. 22 that the defendant is residing at **Nava Zanzariya** village of Bgasara Taluka of Amreli district and he is not legal consumer of the plaintiff company. That, on 30-07-2014, the checking squad of the plaintiff – company checked the house of the defendant in presence of the defendant and

found that she was committing theft of electricity illegally, directly from L.T. Line passed nearby his house. At the place of occurrence the defendant's wife **Champaben Madhabhai Makwana** was present. Thus, the defendant was found indulging in power theft therefore, electricity connection checking report was prepared and Rojkam was also prepared wherein the defendant has refused to set-forth his signature. Muddamal involved in the power theft were also seized. Thereafter, as per ABCD formula, a supplementary bill was given to the defendant in respect of power theft and also informed to pay the same in the office of plaintiff company, but the defendant has not paid any amount towards the power theft, therefore a notice **02-06-2017** was issued though, the defendant has not taken care to pay the said due amount. Therefore present suit has been instituted by the plaintiff company for recovery of the amount of **Rs.5,078.30 Ps. as principal amount + Rs.2,271.76 Ps. Towards D.P.C. Charge amount total comes to Rs.7,300.06 Paisa** from the present defendant with interest at the rate of 15% p.a. from the date of institution of the suit.

9. In support of this oral version the witness of the plaintiff company has produced documentary evidence at Ex. 10 to 21 which were referred as above and considered the said documentary evidence, especially the checking sheet produced at Exh. 18 clearly shows that the defendant was indulging the power theft illegally. Not only that, but in the said document, he has not put his signature which shows that he was agreed with the procedure adopted by the officers of the plaintiff – company. Looking to the proforma – 12 produced at Exh. 11 which shows that Rs.7,300.06 Paisa is due to recover from the defendant for which the plaintiff company has issued the legal notice dated 02-06-2017 by Registered Post A.D. which is produced on record at Exh.12. Thereafter also, the defendant has not given any heed to pay the due amount, which shows that the defendant has indirectly admitted the procedure and he has indirectly admitted that she was found indulging the power theft illegally and thus, the conduct of the defendant shows that as he is guilty, he has not given the co-operation to the plaintiff company. Thus, considering above all the oral

as well as documentary evidence on record, it is found that the defendant has committed the power theft and thus, the procedure adopted by the plaintiff company is quite legal and proper in the eyes of law. Moreover, the defendant has not tried to remain present before the Court though the notice was served upon him. In these circumstances, the pleading and oral evidence of the plaintiff company remains unchallenged. Oral evidence is supported by the documentary evidences produced at Ex.10 to 21, therefore considering oral as well as documentary evidence, it is clearly established that the defendant was found indulged in theft of electricity therefore he is bound to pay the amount of **Rs.5,078.30 Ps. as principal amount + Rs.2,271.76 Ps. Towards D.P.C. Charge amount total comes to Rs.7,300.06 Paisa** hence I reply issue Nos. 1 & 2 in affirmative accordingly.

Issues Nos. 3 & 4 :-

10. So far as interest is concerned, the plaintiff has prayed for 18% interest on the due amount from the date of filing of the suit till its realization from the defendant, but there is no specific contract between the parties as to the rate of interest. In the

special circumstances and in absence of any specific contract regarding rate of running interest, the rate on which moneys are lent or advanced by the Nationalized Bank can be awarded and at present looking to the rate of interest of Nationalized Bank, if the direction would be given to pay 9% interest p.a. on the suit dues, it would be just, reasonable and proper, and therefore, the plaintiff is entitled to recover Rs. 7,300.06 Paisa with interest at the rate of 9 % p.a. from the date of institution of the suit till its realization hence, I reply issue Nos. 3 and 4 in partly in affirmative accordingly.

Issues No. 5 :-

11. As discussed herein above, the plaintiff company has succeeded to prove issue Nos. 1 to 4 and hence, for the issue No. 5 following final order is passed in the interest of justice.

::: O R D E R :::

1. The present suit is hereby allowed.
2. The plaintiff - company is entitled to recover Rs. 7,300.06 Paisa [Rupees seven thousand three hundred and paise six only] from the present defendant toward suit bill

with interest at the rate of 9% p.a. from the date of filing of the suit till its realization.

3. Parties shall bear their own costs.
4. Decree be drawn accordingly.

Pronounced in open Court to-day on this 31st day of JULY, 2018.

Date:-31-07-2018.
AMRELI.

(N. P. CHAUDHARY)
Special Judge,
AMRELI.
Code No.GJ0037.