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Sp. C.S. No. 211 of 2018

Registered on	14/03/18
Decided on	11/01/19
Duration	Y- M- D-
EX.	23

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
AT : JAMNAGAR.**

Special Civil Suit No. 211 of 2018

Paschim Gujarat Vij Company Limited,
Through : Deputy Engineer,
Khambhalia Gate, Sub-Division,
Dist. Jamnagar

... .. **Plaintiff**

V E R S U S

Parvatiben Tapubhai Makwana,
R/o Krishna Park Society, Near Ganchi Kabrastan,
Jamnagar.

... .. **Defendant**

Subject :- Suit to recover Rs. 35,825.52 ps with interest.

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APPEARANCE :-

Shri M.B.Somaiya, learned advocate for the Plaintiff.

Ex-parte for the Defendant.

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

(1) The plaintiff has filed present suit against the defendants for the recovery of Rs.35,825.52 ps with 18% interest and cost of the suit accordingly.

(2) The suit of the plaintiff is that plaintiff is a registered Company under the Companies Act and signatory is legal authorized

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and entitled to file the present suit. As on 18th March 2016 the authorized Officers of plaintiff's Company went on the premises of defendant and checked the electric appliances and power supply. It is found on checking that defendant is not registered customer of plaintiff company and it appears that defendant was dishonestly and illegally consumed the energy-electricity from the service line of plaintiff's electric pole and she was caught red-handed. Hence, supplementary bill was issued and other procedural forms were also filled-up at the premises of defendant. The notice was issued to defendant but defendant did not care to pay theft amount of electricity to the plaintiff. Hence suit.

(3) The Summons was duly served upon the defendant (Exhibit 5) but defendant did not turned to the Court. Hence, case is proceeded ex-parte against the defendant accordingly. The Court has gone through the pleadings as well as the documentary evidences placed by the plaintiff at Exhibit 7 to 20, especially Checking Sheet at Exh.8, Bill at Ex.11, and Notice at Ex.14. Heard, the learned advocate Mr. Somaiya for the plaintiff.

(4) On perusal pleadings with documentary evidences of plaintiff at Exhibit 7 to 20 with Checking Sheet at Exh.8 Bill at Ex.11 and Notice at Ex.14 and supporting affidavit of plaintiff at Ex.21. It transpires to the Court that the case is proceeded ex-parte against the defendant and defendant has not care to appear before the Court and to take legal defence under Order 8 of the Civil Procedure Code. Hence, in the absence of any defence from the defendant's side, the Court has no hesitation to accept the supporting affidavit of plaintiff at Ex.21 alongwith documentary evidences at Exhibit 7 to 20 as true,

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legal and trustworthy accordingly. Therefore, the Court holds that the defendant has illegally and with malafide intention consumed the electricity energy of principal amount of Rs.26,228 and 17 ps from the plaintiff electricity line and said amount is not paid to the plaintiff despite of legal service of notice at Ex.14. Hence, plaintiff is entitled to get principal amount of theft alongwith other charges total of Rs.35,825 and 52 ps from defendant as dishonestly theft of electric energy with 9% interest from the date of filing the suit and cost of the suit. Plaintiff fails to place cogent and sufficient evidence regarding the rate of interest. Hence, taking into consideration of Section 34 of the Civil Procedure Code, it will be legal, just and proper to pass following order and the suit succeeds accordingly.

:-: O R D E R :-:

- (1) The suit is partly allowed with cost.
- (2) Defendant is hereby ordered to pay principal amount of **Rs.35,825.52 ps** (Rupees Thirty Five Thousand Eight Hundred Twenty Five and Fifty Two paise only) alongwith **9%** interest from the date of filing of the suit till the realization of decree to the plaintiff.
- (3) Decree be drawn accordingly.

Pronounced in the open Court today on this 11th day of Jan. 2019.

Date : 11/01/2019.

(PANKAJKUMAR CHANDRAKANT RAVAL)

Place : **Jamnagar.**

Additional District Judge,

Jamnagar.

(Code No.GJ00402)