

Received on : 22/11/16

Registered on:22/11/16

Decided on : 31/01/18

Duration Y. M. D.

1 2 7

Exh.21.

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE, AT
RAJKOT**

SPL. CIVIL SUIT (ELECTRICITY) NO.1966 OF 2016.

Plaintiff:

Paschim Gujarat Vij Company Ltd.,
Through its Dy. Engineer Shree,
Ronki Sub-Division,
Rajkot.

VERSUS

Defendant:

Gangdas Waghjibhai Vaniya,
R/o.Mu.Badhi,
Opp.to Sankatmochan Hanuman Mandir,
Jay Chamunda,
Harijanvas,
Taluka Padadhari,
Dist.Rajkot.

Appearance:

Learned Advocate Mr. B. A. Baxi, for the plaintiff,
Defendant - Exparte.

JUDGEMENT

- 1] The short facts giving rise to this suit are that the plaintiff is a company incorporated under The Gujarat Electricity Industries (Reorganization and Regulation) Act, 2003 having its circle office at Rajkot and a Sub-division at Ronki, Dist. Rajkot. The plaintiff is engaged in the activities of generating, selling etc. the electricity power.
- 2] That the defendant is not a consumer of the plaintiff. On 15/01/2014, the defendant was found committing power theft by directly abstracting the electricity energy illegally from the pole of LT Line passing near the house of the defendant by applying wire of yellow colour in illegal and unauthorized manner. The officers of plaintiff inspected the premises of defendant whereupon above said illegal activities of the defendant were detected. The defendant has committed power theft for which the plaintiff had issued supplementary bill. The defendant has not made payment of said amount, hence, the plaintiff served demand notice to the defendant. However, the defendant failed to make the payment of aforesaid amount, hence, the plaintiff has filed this suit for recovery of Rs.4,962.72 ps. with interest thereon at the rate of 18% per annum and costs of the suit.

- 3] Though the defendant has been duly served he has not chosen to appear and contest the case. My predecessor has passed an order below Exh.1 to be proceeded exparte qua the defendant.
- 4] The following issues are framed at Ex.6 :
 - 1] Whether the plaintiff proves that the defendant has illegally consumed electric energy by committing power theft ?
 - 2] Whether the plaintiff proves that the plaintiff is entitled to recover the amount of supplementary bill from the defendant ?
 - 3] Whether the plaintiff is entitled to get interest on the bill amount?
 - 4] Whether the suit filed by plaintiff is within the limitation period ?
 - 5] What order and decree ?
- 5] My findings on the above issues are as under :-
 - 1] In affirmative.
 - 2] In affirmative.
 - 3] In affirmative.

- 4] In affirmative.
- 5] As per final order below.

REASONS

ISSUES No. 1 to 4 :

- 6] The plaintiff has filed the affidavit of examination-in-chief of one Bhaveshbhai Chhaganbhai Chhatrala at Exh.7, wherein he has deposed on oath the facts narrated in plaint Ex.1. He is employee of the plaintiff and conversant with the facts of the case. He has deposed on oath that the defendant is not a consumer of the plaintiff, and he has committed power theft by illegally abstracting the electricity energy directly from the pole of LT Line passing near the house of the defendant by applying wire of yellow colour on 15/01/2014 in illegal and unauthorized manner. Accordingly, the plaintiff has issued supplementary bill to the defendant and demanded the amount from the defendant, but the defendant has not paid the said amount. Therefore, the plaintiff had issued demand notice and demanded the sum as mentioned therein from the defendant. The said notice is duly served to the defendant. Still, however, the defendant has not paid the amount. Therefore, the plaintiff has filed this suit to recover Rs.4,962.72 ps. from the defendant together with interest thereon at the rate of 18% per annum and costs of the suit.

7] The above version of plaintiff's witness on oath has not been controverted by the defendant by filing reply and the defendant has not led any evidence.

8] In support of aforesaid oral evidence, the plaintiff has produced the following documentary evidence :

[1] Copy of the performa No.12 at Ex.9,

[2] Copy of the office note at Exh.10,

[3] Copy of notice at Ex. 11;

[4] Copy of single phase checking report at Exh.12;

[5] Copy of Rojkam at Exh.13;

[6] Copy of Annexure-4 at Exh.14;

[6] Copy of calculation sheet at Exh.15;

[7] Copy of supplementary bill at Exh.16;

[8] Copy of acknowledgement at Exh.17;

[9] Copy of certificate at Exh.18;

[10] Copy of ledger copy at Exh.19;

9] I have gone through above oral and documentary evidence. On perusal of the oral and documentary evidence, it is proved that the defendant is not a consumer of plaintiff and had directly abstracted electric energy from electricity pole of LT Line by applying wire of yellow colour and thereby had committed power theft.

10] The assessment of the amount for such illegal and

unauthorized use of electricity of plaintiff by the defendant is produced on record and it shows that the bill for the amount mentioned therein was issued by plaintiff to the defendant, and the same was served to defendant. The defendant has not appeared before the court, and disputed the truthfulness of aforesaid bill. Therefore, there is no reason to disbelieve the say of plaintiff.

- 11] The defendant has claimed interest on the suit amount at the rate of 18% per annum. However, there is no contract for rate of interest as the defendant is a non-consumer. Therefore, in absence of agreement in respect of rate of interest, considering the rate of interest prevailing in these days, the plaintiff would be entitled to get interest at the rate of 6% per annum.
- 12] The suit of the plaintiff is within the period of limitation of three years. The premises of the defendant was inspected on 15/01/2014 and this suit is filed on 22/11/2016, which is apparently within the statutory period of limitation of three years as prescribed in the Limitation Act. Hence, the suit of the plaintiff is apparently within the period of limitation of three years.
- 13] In view of aforesaid discussion, I hold that the

plaintiff has proved its case. The issues No. 1 to 4 are decided accordingly and the following final order is passed :

ORDER

- 1] The suit of the plaintiff is allowed. The defendant do pay the sum of Rs.4,962.72 ps. to plaintiff with interest thereon at the rate of 6% per annum from the date of suit till realization together with proportionate costs of the suit.
- 2] Decree to be drawn accordingly.

Pronounced in the open court on this 31st of January,2018 at Rajkot.

Date : 31 -01-2018.
Place : RAJKOT

(M. M. BABI)
ADDI.DISTRICT JUDGE,
RAJKOT.
[Code No.GJ 00344]