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Exh. 21

**IN THE COURT OF 13TH ADDITIONAL DISTRICT JUDGE AND
SPECIAL JUDGE, AT RAJKOT**

SPECIAL CIVIL SUIT (ELECTRICITY) NO. 207 OF 2017

Plaintiff :-

Paschim Gujarat Vij Company Ltd.
Through : its Deputy Engineer, Madhaper Sub. Division
Rajkot.

VERSUS

Respondant :-

– Vishalbhai Vithhalbhai Dabu
Res.: Panchvati Park, Property NO. 2178, B/h. Salm Quarter,
Kuvadva Road, Navagam, Rajkot.

Sub : To recover Rs. 3720-37

Appearance :-

Mr. J. M. Magdani, Learned Advocate for the plaintiff.
Defendant served.

J U D G M E N T

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 subdivision at Madhaper, Rajkot. The plaintiff is engaged in the activities of generating, selling etc. the electricity power.
2. That the defendant is a non consumer of the plaintiff. The defendant had not obtained electricity connection and committed power theft. 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, defendant failed to make the payment of aforesaid amount, hence, the plaintiff has filed this suit for recovery of aforesaid amount with interest thereon at the rate of 12% per annum and costs of the suit.
3. The defendant though duly served has not appeared and has not contested the case in any manner.
4. Following issues are framed at Exh.6.

1. Whether the plaintiff proves that the defendant has committed theft of electric energy and plaintiff is entitled to recover Rs. 3720-37 Ps. from the defendant as claimed by supplementary bill?
 2. Whether the plaintiff entitled to get interest ? if yes,, at what rate ?
 3. What is due to the plaintiff ?
 4. What order and decree ?
5. My findings to above issues are as under.
- 1) In the affirmative.
 - 2) In the affirmative.
 - 3) In the affirmative.
 - 4) As per final order below.

REASONS

ISSUES No.1 to 4 :

6. The plaintiff has filed the affidavit of examination-in-chief of one Mr. Nitinkumar Ishwarlal Prajapati at Exh.7 wherein he has deposed on oath the facts narrated in plaint Exh.1. He is employee of the plaintiff and is conversant with the facts of the case. He has deposed on oath that the defendant is not a consumer of the plaintiff and has committed power theft by illegally abstracting the electricity energy directly from the line of plaintiff passing near the place of the defendant by applying artificial means. The plaintiff accordingly issued supplementary

bill to the defendant and demanded the amount from the defendant, but the defendant did not pay the said amount, hence, plaintiff issued demand notice and demanded the sum as mentioned therein from the defendant. This notice is duly served to defendant, however, the defendant did not pay the amount, hence, the plaintiff has filed this suit to recover Rs. 3720-37 from the defendant together with interest thereon at the rate of 12% per annum and costs of the suit.

7. The above version of plaintiff's witness on oath has not been challenged by defendant in any way.
8. In support of aforesaid oral evidence, the plaintiff has produced the following documentary evidence.

- [1] Copy of proforma No.12 at Exh.9.
- [2] Copy of office note at Exh.10.
- [3] Copy of ledger copy at Exh.11.
- [4] Copy of Notish at Exh.12.
- [5] Copy of F.I.R. at Exh.13.
- [6] Copy of Complain Of theft Exh.14.
- [7] Copy of theft bill at Exh.15.
- [8] Copy of calculation sheet at Exh.16.
- [9] Copy of calculation sheet at Exh.17.
- [10] Copy of annexure -4 at Exh.18.
- [11] Copy of rojkam at Exh.19.

9. I have gone through the 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 he had directly abstracted electric energy from electricity line of plaintiff passing near the place of the defendant by applying artificial means by way of wire 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 by plaintiff which shows that the bill for the amount mentioned therein was issued by plaintiff to defendant and the same was served to defendant. The defendant has not appeared before the court and has not disputed the truthfulness of aforesaid bill. Therefore, there is no reason to disbelieve the say of plaintiff.
11. The plaintiff has claimed interest on the suit amount at the rate of 12% per annum, but according to legal position prevailing on the subject and the rate of interest prevailing in these days, plaintiff would be entitled to get the 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 23/06/15 and this suit is filed on 13/02/17, 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 following final order is passed.

ORDER

1. The suit of the plaintiff is allowed. The defendant do pay the sum of Rs. 3720-37 ps. to the 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.

Decree to be drawn accordingly.

Pronounced in open Court 30th January of, 2018.

Date:30-01-2018

Place : RAJKOT

[Praksh Pratapji Purohit]
13TH ADDL. DISTRICT JUDGE
RAJKOT.
CODE NO.GJ00685.