

Received on : 17.04.2018
Registered on : 17.04.2018
Decided on : 28.12.2018
Duration :
DD MM YY

IN THE COURT ADDITIONAL DISTRICT JUDGE, KODINAR

**SPECIAL CIVIL SUIT (Electricity) No. 1930/2018
(Una Old case No 679/2018)**

Ex.-21

PLAINTIFF :

Paschim Gujarat Vij Company Ltd.,
Supplying electricity having head office
situated at Rajkot and out of other offices
this sub division office situated at Una-city.

V E R S U S

DEFENDANT :

Jyotsnaben Kalabhai Kamliya
C/O Magji Rajabhai Bhaliya
Occupation : Labour
R/o at Malsharam Tal, Kodinar.

**Subject : Suit to recover the power theft amount of Rs.12363.62
Ps. U/S 154(5) of Electricity Act, 2003.**

- Ld. Advocate Mr. M.J. Kubavat for plaintiff.
- Ex-parte against the defendant.

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

(1) The short facts given rise to the present suit are as
under :-

The brief facts of the plaintiff's case is such that the plaintiff company came in to existence under the G.R. No. GEB 1104-7318-K dated 31.12.2004 of Government of Gujarat, Energy and petrochemicals Department and established as Paschim Gujarat Vij Company Limited instead of Gujarat Vidyut Board. Earlier, Electricity was provided by Gujarat Electricity Board in the whole Gujarat. Thereby, all the record provided in this suit is in the name of Gujarat Vidyut Board, but now it is to be count in the running name of the company and earlier the officers of the plaintiff company has done the procedure in name of board but now it is to be known in the name of Paschim Gujarat Vij Company Ltd.

- (2) It is averred by the plaintiff that **Jyotsnaben Kalabhai Kamliya** was not holding the domestic electric supply connection. The plaintiff has alleged that on dated **17.01.2017**, the officer of the checking squad of the plaintiff company was in the checking in the domestic electric supply connection of the defendant at village of Taluka Kodinar and it was found that the defendant was not holding the said metre/connection of the plaintiff company though using the electricity illegally by placing service wires directly on the pole of the plaintiff company and consuming 340 watt for the residential purpose and caught by the officers of the plaintiff company. The officers of the plaintiff company has prepared the rojakam and inspection report on the

spot and the officers of plaintiff company has ahs signed on the prepared documents by defendant has denied to sigh on the said documents. Officers of the plaintiff company has submit the prepared documents to the plaintiff's office. Thereafter, officers of the plaintiff company under their supervision and their instruction prepared a theft calculation sheet and issued a power theft bill of Rs. **10592.00** on dtd. **17.01.2017** The defendant is not giving any heed to pay the bill of plaintiff company and has not done any explication to pay the bill amount and hence it was compelled to file the suit. The cause of filling suit arise in the Hon'ble Court due to the checking of power theft at defendant's home on dated **17.01.2017** and due to the non payment the bill of power theft issued on dated **22.12.2017**d also legal notice issued to the defendant by the penal advocate of the plaintiff company on dated **12363.62** Therefore, as per the rule of plaintiff company, if anybody fails to pay the amount of bill within 15 days, then D.P.C.is to be charged. Thereby, defendant is responsible to pay the suit amount with D.P.C. but defendant fails to pay the bill amount. Therefore, plaintiff company has filed the suit to recover the due amount of Rs. **10592.00Ps**. including D.P.C. Rs. **1771.62Ps** and in total Rs.**12363.62Ps** with compound interest at the rate of 24%p.a. with cost. And pray to

draw decree in favour of plaintiff company.

(3) The notice **Exh.5** has been issued and duly served upon the defendant, but he has not appeared before the Court personally not through his advocate when repeated called out, therefore an order passed below Exh. 1 to proceed the matter ex-parte against the defendant on dated **14.12.2018**

(4) To prove its case, the plaintiff has produced their ocular and documentary evidence as under:-

Oral Evidence :-

Ex.7	:	Affidavit for examination-in-chief under C.P.C., Order-18, Rule-4 of Jashbubhai Bhikhabhai Barad, Dy. Engineer of plaintiff company.
------	---	--

Documentary Evidence :-

Ex.8	:	Rojkam
Ex.9	:	Inspection report of the spot.
Ex.10	:	Annexure -4
Ex.11	:	Theft bill calculation sheet
Ex.12	:	Ledger of defendant's account.
Ex.13	:	Theft bill
Ex.14	:	Supplementary bill.
Ex.15	:	Office copy of legal notice issued by the advocate to the defendant.
Ex.16	:	Returned R.P.A.D. Cover
Ex.17	:	Performa No. 12
Ex.18	:	Sanction order.
Ex.19	:	Certified copy of Authority Letter.

Ex.20	:	Closing Pursis
-------	---	----------------

At the stage of evidence the defendant remained absent hence, defendants evidence was closed on dated **19.12.2018** and right of argument was also closed on dated **20.12.2018**.

5) Following issue are framed vide Exh.**06** for the determination of the suit.

- 1) Whether the plaintiff proves that the defendant has committed theft of electricity of the alleged amount?
 - 2) Whether the plaintiff is entitle to get interest ? if yes, at what rate?
 - 3) Whether the plaintiff is entitle to get the relief as sought for?
 - 4) What order and decree ?
- 6) My findings of the above issues are as under:-
- 1) In the affirmative.
 - 2) In the affirmative, at the rate of 6% per annum.
 - 3) In the affirmative as per final order.
 - 4) As per final order.

:- REASONS :-

ISSUE NO. 1 TO 3 :-

(7) All these three issues are inter connected to each other, so ergo with a view to avoid repetition, I discuss and decide above issues together.

(8) The plaintiff's officer has filed the affidavit of examination-in-chief vide **Exh.7** in support of plaint as per O.18, R.4 of C.P.C. and in such affidavit plaintiff's officer is supporting the facts of the plaint and defendant has not appeared for the cross examination, therefore, right of defendant for cross examination was closed on dated **19.12.2018**. so the affidavit is supporting the fact of the suit. plaintiff has produced documentary evidence to prove its case vide **Exh.08 to 19** as described in para-04, hence the plaintiff documentary evidence and chief examination of the plaintiff witness **exhibit 07** are unchallenged from the defendant side, therefore, there is no reason to disbelieve plaintiff's evidence.

(9) On perusal of the ocular and documentary evidence produced by the plaintiff company, it is proved that checking squad of plaintiff company visited at defendant's place on dtd. **17.01.2017** and have found that defendant had taken direct electric connection from the electric line and was consuming the electricity. Defendant was not the consumer of the plaintiff company though using the electricity illegally. Thus the defendant has been found out dishonestly using, consuming and abstracting the electric energy and committed the act of

theft of electricity. The checking squad has prepared a power theft bill of Rs. **10592.00Ps.** and issued to the defendant but defendant has failed and neglected to make the payment of the same, hence, the suit is filed. Therefore, it is crystal clear that the defendant has committed the theft of electric energy and liable to pay the theft electricity bill of Rs. **10592.00** Paise including D.P.C. Rs. **1771.62** Ps. and in total Rs.**12363.62** Ps. with interest to the plaintiff company.

(10) Further, plaintiff company has prayed for compound interest at the rate of 24% p.a., but, in this suit between the parties there is no specific contract for interest therefore as per section 34 of C.P.C., plaintiff is entitled to get relief of the interest at the rate of 6% on the due amount of the suit from the defendant.

(11) Therefore, in view of the above discussion, plaintiff company is entitled to recover the suit amount of Rs. 10,380.79 Ps. with simple interest at the rate of 6% p.a. from the date of filing of the suit till the realization of the suit amount from the defendant. And in view of my above discussion, I answer Issue Nos. 1 to 3 accordingly and for Issue No. 4, following order requires to be passed.

-:: ORDER ::-

- The plaintiff's suit is Partly allowed.
- The plaintiff is entitled to recover the suit amount Rs.

10592.00 Paise (Rupees Ten Thousand Five hundred Ninety Two Only) with simple interest at the rate of 6% (Six percent) per annum from the date of filing of the suit till the realization from the defendant.

- The defendant do pay the costs of the plaintiff's suit and bear his own costs.
- Decree be drawn accordingly.

Pronounced in open Court today this 28th day of December, 2018.

Date : 28/12/2018.
Place: Kodinar.

[Nareshbhai Laxmishankar Dave]
Additional District Judge &
Special Judge (Electricity), Kodinar.
U.Id.No. GJ.00439.