

Received on:-

Registered on:-

Decided on:-

Duration :- Y. M. Days.

In the court of the 5th Additional District Judge, Bhavnagar at Mahuva

Spl.Civil suit (Electricity) No.209/2018

Ex. _____

The Paschim Gujarat Vij Co. Ltd.,
A company established for
supply of electricity,
Head office at Rajkot
Through one of its Rural-1
sub division office, Mahuva,
Ta. Mahuva Dist. Bhavnagar

....Plaintiff

Versus.

Nakum Rameshbhai Nathbhai
Age : Adult, Religion:Hindu
Residing at Village:Uagalvan
Ta. Mahuva, Dist. Bhavnagar

...Defendant

Subject : Suit for recovery of Rs.28,668.39

Ld. Advocate Mr. K.R. Maheta for the plaintiff
Defendant though served remained absent hence exparte.

= J U D G M E N T =

- 1) Plaintiff has filed the present suit for recovery of Rs.28,668.39
paisa along with the cost and interest from the defendant as

prayed for in para-12 of the plaint.

- 2) The brief facts of the plaintiff's case are as under :-
- 3) That the plaintiff is a Paschim Gujarat Vij Company Limited, (P.G.V.C.L. for short) established as per the section 5 of the Gujarat Electricity Supply Act before its conversion into P.G.V.C.L.
- 4) That it is the further the case of the plaintiff company that as on 21/04/2016 officers of the plaintiff company carried out surprise checking of the house of the defendant and during surprise checking it is found that defendant was extracting electricity by hooking from the plaintiff company's L.T. line pole illegally and, therefore, the plaintiff company had issued bill of Rs.21,610.94 paisa to the defendant and in spite of repeated request made by the plaintiff company to the defendant for the payment thereof and even after issuing of the legal notice to the defendant for the payment thereof, defendant had failed to make the payment of the bill in question and, therefore, the defendant is liable to pay the amount of delay payment charges along with notice fee to the plaintiff company. So in all defendant is liable to pay Rs. 28,668.39 to the plaintiff company as stated in the plaint. But defendant has not made any payment of the said amount

to the plaintiff company, hence plaintiff company is constrained to file the present suit for recovery of amount stated in the plaint along with the cost and interest.

- 5) That in this matter though the suit summons was duly served upon the defendant, defendant has not appeared in the matter, therefore, suit is ordered to be proceeded ex parte againsts the defendant by passing an order below exh-1.
- 6) As the defendant has not appeared and filed his written statement the court has not deemed it fit to frame issues but following points for determination have been arisen to decide the suit.

ISSUES

1. Whether plaintiff proves that defendant has committed fact electricity of Rs. Rs. 28,668.39
 2. Whether plaintiff entitled to get interest ? if yes at what rate?
 3. Whether the plaintiff entitled to get relief as prayed for ?
 4. What order and decree ?
- 7) My findings on the above issues with the reasons are as under:-
1. In the affirmative.
 2. Partly in the affirmative at the rate of 9%P.A
 3. Partly in the affirmative
 4. As per final order.
- 8) That in this matter in order to prove the suit, the plaintiff company has produced following oral as well as documentary evidence.

Oral Evidence

Deposition of Dy. Engineer of plaintiff company Mr. Bhut Manishbhai Punabhai at Exh.6

Documentary Evidence

Ex. 08	A copy of proforma-12
Ex. 09	rojkam and checking sheet
Ex. 10	A copy rojkam at the place of theft.
Ex. 11	A copy of provisinal theft bill
Ex. 12	Notice By an Advocate to Defendet
Ex. 13	Un Delivred Advocate Notice
Ex. 14	Consumer Jornal Ledger Sheet
Ex. 15	Letter by PGVCL to GUVNL Police Station to lodge Complaint
Ex. 16	Closing pursis

09) That in this matter the defendant has been duly served but he has not chosen to contest the suit by filing written statement.

REASONS

Issues No. 1

10) That in this case in order to prove the contents of the plaint Exh.1 on behalf of the plaintiff company one Mr. Bhut Manishbhai Punabhai Dy. Engineer of sub Division P.G.V.C.L. Rural-1 Mahuva Ta.Mahuva Dist. bhavnagar has deposed on oath at Exh.6 wherein he has reiterated the facts stated in the plaint and the deposition of the plaintiff is not challenged by the defendant though he had given an opportunity to challenge the same. Further more, the plaintiff company

has also produced documentary evidence vide Exh. 8 to 15 in support of their suit. Plaintiff Dy. Engineer Mr. Bhut Manishbhai Punabhai has examine himself on oath vide ex-6. So looking to the oral evidence of the Dy. Engineer, Sub Division, Rural-1 Mahuva along with the documentary evidence produced by the plaintiff company, it appears that the on the date of the surprise checking defendant was found to have been extracting electricity by hooking illegally from the electricity pole of the plaintiff company and, therefore, plaintiff company had issued bill of Rs.21,610.94 paisa and plaintiff company has also issued legal notice to the defendant for the payment thereof. But defendant has failed to make the payment thereof and, therefore, the defendant is also liable to pay delay payment charges as well as notice fee to the plaintiff company as stated in the plaint and deposition of the plaintiff. Though Opportunity have been afforded to the defendant to file his W.S.. But he has not chosen to file his W.S. and thereby to contest the plaintiff suit. Further more, defendants has not cross examined plaintiff. So oral testimony of plaintiff is not challenged by way of cross examination. Plaintiff is a authorized officer of the P.G.V.C.L. to file suit on behalf of the vij company. So according to my opinion plaintiff has successfully proved that plaintiff company is entitled to recover Rs. 28,668.39 paisa from the defendant.

Hence I answer the issue No.1 in the affirmative.

Issues No. 2

11) Plaintiff is supplying electricity to their consumers. Their accounts are also being audited. Defendant has illegally committed theft of electricity thereby he has pilfered the electricity. Plaintiff is a commercial organization. That as discussed plaintiff is involved in commercial activity of supplying electricity, defendant has failed to make the payment to the plaintiff on the suit amount in spite of issuing of legal notice it would be just and proper to award 9% interest on the suit amount to the plaintiff that would meet the end of justice. Hence I award 9% interest to the plaintiff on the suit amount and accordingly I answer issue No.2 partly in the affirmative.

Issues No. 3

12) That in view of the detailed discussion made here in above in issue No. 1 and 2, plaintiff company is entitled to recover Rs. 28,668.39 from the defendant along with the interest at the rate of 9% from the date of filing of the suit till its realization and, accordingly suit of the plaintiff is required to be partly allowed and, therefore, I pass the following final order.

ORDER

1 The present suit of the plaintiff P.G.V.C.L. is hereby partly

allowed with costs.

- 2 The plaintiff company is entitled to recover Rs. 28,668.39 (Rupees Twenty Eight Thousand Sixty Hundred Sixty Eight and Thirty Nine Paise only) together with costs and interest at the rate of 9% p.a. from the date of filing suit till its realization from the defendant.
- 3 The defendant is ordered to pay the cost of suit to plaintiff company.
- 4 Plaintiff is entitled to recover the decretal amount from the person and property of the defendant.

Decree to be drawn accordingly.

Pronounced in the open Court to-day on this 17th day of july, 2018.

Mahuva
Date : 17-07-2018

(Jayeshkumar Thakorlal Shah)
5th Additional District Judge
Bhavnagar, at Mahuva
Code : GJ00506