

Received on:-

Registered on:-

Decided on:-

Duration :- Y. M. Days.

In the court of the 2nd Additional District Judge, Bhavnagar at Mahuva

Spl.Civil suit (Electricity) No. 267 of 2016

Ex. _____

The Paschim Gujarat Vij Co. Ltd.,
A company established for
supply of electricity,
Through Head office at Rajkot,
Jesar, Sub Division office, Jesar,
Dist. Bhavnagar

....Plaintiff

Versus.

Chudasama Kalubhai Gobarbhai
Age : Adult, Religion : Hindu,
Residing at Nava Pa,
Ta. : Jesar, Dist. Bhavnagar

...Defendant

Subject : Suit for recovery of Rs.33,874.21 paisa

Ld. Advocate Mr. K. R. Mehta for the plaintiff
Ld. Advocate Mr. J. J. Joshi for the defendant.

= J U D G M E N T =

1) Plaintiff has filed the present suit for recovery of Rs.33,874.21
paisa along with the cost and interest from the defendant as prayed for
in the plaint.

2) The brief facts of the plaintiff's case are as under :-

That the plaintiff is a Paschim Gujarat Vij Company Limited, (P.G.V.C.L. for short) established as per the Gujarat Electricity Supply Act before its conversion into P.G.V.C.L.

That it is the further the case of the plaintiff company that as on 29/12/2015 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 illegally electricity by hooking from the plaintiff company's line and, therefore, the plaintiff company had issued bill of Rs. 29,845.12 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 such bill, delay payment charges along with notice fee to the plaintiff company. So thus in all defendant is liable to pay total amount of Rs.33,874.21 paisa to the plaintiff company as stated in the plaint. But defendant has not made any payment of the said due amount to the plaintiff company, hence plaintiff company has file this present suit for recovery of such due amount stated in the plaint along with the cost and interest in terms of

relief claimed in the plaint.

3) As per the record, after service of summons defendant appeared before Court through his advocate. But then after he failed to file his W.S. therefore, his right to file W. S. was closed and subsequently also his right of cross examination, adducing evidence as well as oral arguments was closed at particular stage.

4) On considering the pleading, oral and documentary evidence of the plaintiff following issues have been raised at Exh.10 for determination of the plaintiff's suit.

1. Whether plaintiff entitled to recover suit amount as prayed for from the defendant ?
2. Whether the plaintiff entitled for interest ?
3. What order and decree ?

5) My findings on the above issues with the reasons are as under:-

1. In the affirmative.
2. Partly in the affirmative
3. As per final order.

6) 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. Govindbhai Manglabhai Visat at Exh.14.

Documentary Evidence

Ex. 17	A copy of proforma-12
Ex. 18	A copy of checking sheet.
Ex. 19	A copy of rojkam
Ex. 20	A copy of supplementary bill
Ex. 21	A copy of notice issued by the advocate of the plaintiff company to the defendant.
Ex. 22	An undelivered cover of notice

7) That in this matter though the sufficient opportunity was given to the defendant to produce his evidence, defendant has not produced any evidence in this matter.

REASONS

8) Issues No. 1

As per the settled law plaintiff has to prove their suit plea and suit claim

- That in case in order to prove the contents of the plaint Exh.1 on behalf of the plaintiff company one Govindbhai Manglabhai Visat, Dy. Engineer of sub Division of P.G.V.C.L. has deposed on oath at Exh.14 wherein he has reiterated the facts stated in the plaint and the deposition of such witness of the plaintiff is not challenged by the defendant though he had an opportunity to challenge the same. Furthermore, the plaintiff company has also produced documentary evidence vide Exh. 17 to 22 in support of oral evidence of the such witness.

- Such all the oral as well as documentary evidence are un challenged,

there is no reason to discard such evidence and defendant is also failed to produce any adverse evidence, so looking to the oral evidence of the such witness of plaintiff 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 committed the theft as alleged in the plaint, therefore, its also become clear that such unchallenged evidence of plaintiff is sufficient to establish that the plaintiff company is entitled to recover Rs.33,874.21 from the defendant. Hence on the basis of evidence produced on behalf of plaintiff, this Court is believe that such all the evidence is sufficient to prove issue No.1 i.e. plaintiff is entitled to recover such suit amount as prayed for from the defendant.

9) Issues No. 2

That as stated and ordered in issue No.1 that the 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.

10) Issues No. 3

That in view of the detailed discussion made here in above in issue No.

1 and 2, plaintiff company is entitled to recover Rs.33,874.21 from the defendant along with the interest at the rate of 9% from the date of 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

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

The plaintiff company is entitled to get Rs.33,874.21 paisa (Rupees Thirty Three Thousand Eight Hundred Seventy Four and Twenty one paisa only) together with costs and interest at the rate of 9% p.a. from the date of suit till its realization from the defendant.

The defendant is ordered to pay the cost of plaintiff company and shall also bear his own cost.

Decree to be drawn accordingly.

Pronounced in the open Court to-day on this 30th day of October, 2018.

Mahuva
Date : 30 -10 - 2018

(Shailesh Hiralal Patel)
2nd Additional District Judge
Bhavnagar, at Mahuva
Code : GJ00432

A.P. Lathigara