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Exh.-

**IN THE COURT OF 14TH ADDL. DISTRICT JUDGE & SPECIAL JUDGE,
AT RAJKOT**

SPL. CIVIL SUIT (ELECTRICITY) NO. 1828 OF 2016.

Plaintiff :

Paschim Gujarat Vij Company Ltd.
through its Deputy Engineer, Ronki Sub.Division.
Rajkot

VERSUS

Respondent :

Pravinbhai Govabhai Meriya
R/O Vejagam, Kalawad Road,RAJKOT .

Appearance :

Mr. V.N.Nimbark , Learned Advocate for 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 sub-division

at Ronki , Rajkot. The plaintiff is engaged in the activities of generating, selling etc. the electricity power.

2. That the defendant is a consumer of the plaintiff. The defendant had obtained electricity connection, but tampered with the meter seal and electric meter and thereby has 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, the 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. The following issues are framed at Ex. 5 :
 - (1) Whether the plaintiff company proves that the defendant has committed theft of electric energy and plaintiff is entitled to recover Rs. 5734-40 ps. from the defendant as claimed by supplementary bill ?
 - (2) Whether the plaintiff is 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 Bhaveshkumar Chhaganbhai Chhatrala at Ex.6 wherein he has deposed on oath the facts narrated in plaint Ex. 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 a consumer of the plaintiff, but has tampered with the meter seal and electric meter and has committed power theft. The plaintiff accordingly issued supplementary bill to the defendant and demanded the amount from 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. Still, however, the defendant did not pay the amount, hence, the plaintiff has filed this suit to recover Rs. 5734-40 ps. 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 the proforma 12 at Ex. 8.

[2] Office Note at Ex.9.

[3] Notice at Ex.10.

[4] Acknowledgement at Ex. 11.

[5] Checking Report at Ex. 12.

[6] Rojkam at Ex. 13.

[7] Annexure-4 at Ex. 14.

[8] Annexure-11 at Ex. 15.

[9] Annexure-12 at Ex. 16.

[10] Ledger Copy at Ex. 17.

[11] Certificate at Ex. 17.

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, but he had directly obtained electric supply from electricity pole and thereby committed power theft.

10. The calculation of the amount for such illegal and unauthorised 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, the 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 11-12-2013 and this suit is filed on 20-10-2016, 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. 5734-40 ps. to plaintiff with interest thereon at the rate of 6% per annum from the date of suit till realisation together with proportionate costs of the suit.

Decree to be drawn accordingly.

Pronounced in open court this 27th day of February , 2018

Date : 27-02-2018

Place : RAJKOT

(Prakash Pratapji Purohit)
14TH ADDL. DISTRICT JUDGE,
RAJKOT.
CODE NO.:GJ00685.