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**IN THE COURT OF 8TH ADDITIONAL DISTRICT JUDGE,
BHAVNAGAR**

Special Civil Suit No.19/2008

Plaintiff :

Paschim Gujarat Vij Co. Ltd.,
Constituted under Gujarat Electricity Industries
(Reorganization & Regulation) Act, 2003
having its Head Office at Laxminagar, Rajkot
through Deputy Engineer, Sub-Division Office,
Vartej, Dist. Bhavnagar.

Versus

Defendant :

Hareshbhai Jadavbhai,
Adult, R/o.Village Adhevada,
Taluka Dist. Bhavnagar.

Re: - Suit for recovery of Rs.41,815.03 ps.

Appearance:

Mr. R.L. Patel, Learned Advocate for the plaintiff.
Mr. U.V. Gohil, Learned Advocate for the defendant

J U D G M E N T

1. The case of the plaintiff in brief is that it is a Company registered under law. That earlier it was known as Gujarat

Electricity Board however upon reorganisation the Gujarat Urja Vikas Nigam Ltd. and the plaintiff Company came into existence. That the plaintiff company is engaged in producing and thereafter distributing electricity in the Gujarat State and for proper administration different establishments like Circle Office, Division Office and Sub-Division Offices have been established. Accordingly plaintiff company carries out its administration and Superintendent, Executive Engineer and Dy. Engineer are its officers respectively.

2. That the defendant herein has never preferred any application with the plaintiff company for availing any electricity connection, however, while checking conducted by the officials of the plaintiff company on **13-11-2006** at the premises of the defendant it was found that the defendant was using electric energy illegally, and hence, a supplementary bill, including D.P. charges for **Rs.41,815.03 ps.** was issued by the officials of the plaintiff company to the defendant. However, the defendant has not made any payment till date, and therefore, the plaintiff company is compelled to file the present suit for recovering the said outstanding amount from the defendant.
3. That as per the various conditions of the Condition for Power Supply of Electricity Energy and Indian Electricity Act, the defendant falls in the definition of customer. Moreover, if a person is found using electric energy for

some time, then the plaintiff company is entitled to consider such person as consumer and the plaintiff company is liable to recover the amount from him. That as the defendant was found in theft of electric energy, he had been issued a bill for **Rs.41,815.03 ps.**, including D.P.C. however, the defendant has failed to make the payment, and therefore, the plaintiff company is entitled to recover the above amount from the defendant, and therefore, the present suit has been filed by the plaintiff company.

4. That despite being repeatedly called upon to make payment of the said bill, the defendant did not make any payment and therefore, legal demand notice was issued through plaintiff's Learned Advocate. That despite service thereof the defendant has not made any payment and therefore, the plaintiff has been compelled to approach this Court for recovery of the outstanding amount with interest at the rate of 18%.
5. The defendant has been duly served with the summons-notice vide Ex.5. The defendant has appeared through his advocate Mr.UV Gohil and filed his written statement in the matter vide Ex.10 denying the facts and averments, made in the suit in toto. He has specifically denied the alleged theft, committed by him and inter alia contended that though he has not committed any theft of electricity, the plaintiff-Company has filed false suit against him by filing false FIR against him stating thereunder wrong, flimsy and bogus facts and that too after lapse of 2 years

without explaining any reason for such delay with a view to harass the plaintiff and extract money from him illegally and unauthorisedly and hence, the present suit of the plaintiff deserves to be dismissed with costs.

6. Thereafter, inspite of giving ample opportunities, neither the defendant nor his advocate remained present either for arguing out the matter or leading evidence or cross-examine the witness of the plaintiff and hence, the Court has closed all of his rights. Hence, this matter is being decided on merits as per the documentary evidences, produced on record in accordance with the law.
7. The Issues have been framed at Exh.12 which are as follows :
 1. Whether the plaintiff proves that **Rs.41,815.03 ps.** are due from the defendant towards electricity charges ?
 2. Whether the plaintiff proves that defendant has committed theft of electric energy ?
 3. Whether the plaintiff is entitled to get interest ? If yes, at what rate ?
 4. Whether the defendant proves that the suit of the plaintiff is fals and got up ?
 5. What order and decree ?
8. My findings for the above stated issues are as under :
 1. In Affirmative.
 2. In Affirmative.
 3. In Affirmative.

4. In Affirmative.
5. As per final order.

:: REASONS ::

9. To prove its case, the plaintiff company has filed the affidavit of its official **Mr.HB Jinjala** at **Exh.14** and also produced documentary evidence viz. Form No.12, Legal Notice issued by plaintiff company, FIR, supplementary bill, Rojkam, Calculation & Checking sheets etc. at **Ex.16 to 22.**
10. Thereafter, plaintiff has closed its evidence vide pursis **Exh.24** whereas, the defendant has neither appeared personally or through his duly instructed advocate, and therefore, no evidence has been led by the defendant. Thereafter, Learned Advocate for the plaintiff has been heard.

Issue nos.1 to 4 :

11. Since the above Issues are interrelated with each other, for the sake of brevity and with a view to avoid repetition they are being discussed together.
12. The solitary witness namely **Mr.HB Jinjala**, Deputy Engineer, PGVCL, Sub – Division, is examined vide **Exh.14** and he has more or less reiterated the contentions of the plaint and therefore the same are not reproduced here, however, it would be suffice to say that during the said examination he has proved documents at **Exh.16 to Exh.22.** It is pertinent to note here that the defendant has

not rebutted the suit of the plaintiff either by way of arguing out the matter or leading oral as well as documentary evidence and thereby, all the averments of the suit as well as oral and documentary evidence, adduced and produced by the plaintiff remain unchallenged and hence, there is no reason to disbelieve the same. Even otherwise, going through all the evidences, produced by the plaintiff-Company, it clearly transpires that the disputed bill and all the produceedings, adopted to that extent, are legal, proper and in accordance with the law and, therefore, the plaintiff-Company has successfully proved its case.

13. Upon conjoint reading of the said examination - in - chief as well as the documentary evidence, it is apparent that the defendant was not a consumer of the plaintiff company as contended. From the total evidence produced on record, it is apparent that an amount of **Rs.41,815.03 ps.** is outstanding towards illegal consumption of electricity and despite being called upon, the defendant has defaulted in making payment thereof. Therefore, the Issue nos.1 & 2 are answered in Affirmative.
14. The plaintiff has claimed interest at the rate of 18% or the rate charged by the Nationalized Banks towards the loans advanced, whichever is greater. However, the plaintiff has failed to substantiate the said claim or even stated the grounds upon which the same has been claimed. However, taking the entirety of the case along with the

prevailing interest rates into consideration, it is desirable that the plaintiff be granted interest at the rate of **7% p.a.** on the outstanding amount from the date of suit till its realization. Hence I answer Issue no.3 in affirmative accordingly and pass the following order :

:: ORDER ::

The suit of the plaintiff is allowed.

The plaintiff Company is entitled to recover the due amount of electric theft bill of **Rs.41,815.03 ps.** with **7%** interest from the date of filing of suit till its realization. The defendant is hereby directed to pay the decretal amount within 1 (One) month from the date of this order

The defendant shall bear his own cost and shall also bear the cost of the plaintiff.

Decree be drawn accordingly.

Pronounced in open court on **28nd February, 2019.**

Place: Bhavnagar	(Jatinkumar Natvarlal Thakkar), 8th Additional District Judge, Bhavnagar Code No.GJ 00542
Date : 28-02-2019	