

Received on : 17.12.2016
Registered on : 17.12.2016
Decided on : 21.02.2019
Duration : YY MM DD

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
BHAVNAGAR.**

Regular Civil Suit No.2426/16

Plaintiff

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

Versus

Defendant

Ashokbhai Shardulbhai
Adult, R/o.Hastgiri(Jaliya),
Tal. Palitana, Dist. Bhavnagar.

Re: - Suit for recovery of Rs.2510/31

Appearance:

Mr. U.H. Rana, Learned Advocate for the plaintiff.
Ex-parte against 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 **29.01.2015** 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.2510/31** 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.2510/31**, 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. Despite service of summons the defendant failed to appear on the returnable date or thereafter. Therefore an order of ex-parte proceeding is passed against him below Exh.1. In absence of Written Statement, the framing of issues was dispensed with under provisions of Order XIV, Rule - 1(6) of the Code of Civil Procedure, 1908 and the suit was posted for plaintiff's evidence.
6. The Issues have been framed at Exh.6 which are as follows :
 1. Whether the plaintiff proves that **Rs.2510/31** 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. What order and decree ?
7. My findings for the above stated issues are as under :
1. In Affirmative.
 2. In Affirmative.
 3. In Affirmative.
 4. As per final order.

:: REASONS ::

8. To prove its case, the plaintiff company has filed the affidavit of its official Mr. H.T. Vangal at Exh.7 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.9 to 19.
9. Thereafter, plaintiff has closed its evidence vide pursis Exh.20 whereas, the defendant has neither appeared personally nor 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 :

10. 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.
11. The solitary witness namely Mr. H.T. Vangal, Deputy Engineer, PGVCL, Sub – Division, is examined vide Exh.7 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.9 to Exh.19. Considering the fact that the defendant has neither appeared personally nor through his duly instructed advocate and not filed any written statement, the contentions of the plaint as well as the examination - in - chief have remained unchallenged, and hence, there is no reason to disbelieve the same.
12. 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.2510/31** 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.
13. 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.2510/31** 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 **21th February, 2019.**

Date : 21/02/2019
Place : BHAVNAGAR.

Mr.M.M.Shaikh

(SHUBHADA KRISHNAKANT BAXI)
PRINCIPAL DISTRICT JUDGE,
BHAVNAGAR.
JUDGE CODE-GJ00377