



Received on:		23/03/2018
Registered on:		23/03/2018
Decided on:		01/01/2019
Duration:		
Years 00	Months 09	Days. 09

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,
DHRANGADHRA**

Regular Civil Suit No. 244/18

Exh. _____

PLAINTIFF:

Paschim Gujarat Vij Co. Ltd.,
Mava Road, Rajkot.
Rural Sub-Division Office At Dhrangadhra.

Versus

DEFENDANT:

Keharbhai Motibhai Parmar
Age: 55 years, Occ.: Labour
R/o. Ashok Society, Dhodidhar, Ta. Dhrangadhra.

Sub.: Suit for recovery of Rs.5391=14/-

Appearance:

L.A. Mr. G. M. Mehta for the Plaintiff
Ex-Parte for the defendant.

J U D G M E N T

1. Gujarat Vidyut Board, is a Board established under Indian Electricity Act – 5. As per Gujarat Electricity Industry (Reorganization and Regulation) Act-2003, the Gujarat Vidyut Board was re-established. In this regard, the government of Gujarat has put forward Gujarat Electricity Industry (Reorganization and Transfer Scheme) – 2003 and Gujarat Electricity Reorganization and Comprehensive Transfer – 2003 notification. With respect to this, the board has transferred the power of give and take to various company from which the Paschim Gujarat Vij Company Limited, Surendranagar is involved. Therefore, the plaintiff is entitled to claim the above mentioned amount from the defendant.

2. The plaintiff company is the self established institution under the Indian Electricity Act and works to provide electricity for several purposes like as domestic, agricultural, industrial etc. by installing the poles as well as electrical lines on it and thereby providing the electricity to its customers in the State having its division and sub-division offices in the State and out of them one Rural Sub-Division Office is situated at Dhrangadhra. That, the signatory of the plaint has been granted power to institute the suit from his head office. The present defendant residing at Ashok Society, Dhodidhar, is not a legal consumer of the plaintiff company. That on 22/07/2015, the checking squad of the plaintiff-company checked the house of the defendant in presence of the defendant and found that he was committing theft of electricity illegally, directly from the L.T.Line passed nearby his house by connecting a long cable wire, which was seized from the spot. Thus, the defendant was found indulging in power theft and hence, checking sheet was prepared by the officer of the plaintiff-company in which defendant has denied to

put his signature and thereafter, procedure was done according to the rules and regulation of the company. As the defendant has committed theft of electricity under Section 135 of the Electricity Act, as per ABCD formula, a supplementary bill was given to the defendant in respect of power theft and also informed to pay the same in the office of plaintiff company, but the defendant has not paid any amount towards the power theft, therefore a legal notice was served on 15/02/2018 to the defendant. Though, the defendant has not taken care to pay the said due amount. It is further averred that till today the defendant has not paid any amount towards due amount of the power theft and therefore, the present suit has been instituted by the plaintiff company for recovery of the amount of Rs. 3901.51 ps. towards energy charge amount, Rs. 1489.63 ps towards D.P.C. charge amount total comes to Rs. 5391.14 paisa from the present defendant with interest at the rate of 18% p.a. from the date of institution of the suit.

3. On filing of this suit, the defendant was duly served with the notice; but in spite of sufficient opportunities, he has not chosen to remain present, hence, as per the order dated 12/11/2018 passed below Exh. 1, the matter has been proceeded ex-parte against the defendant.

4. To prove its case, the plaintiff has examined Mr. Dharmendrasinh Kanubha Jadeja, Dy. Engineer, Rural Sub-Division, Dhrangadhra vide Exh. 7 as well as produced following documentary evidence vide Exh. 10 to 22.

Sr. No.	Particulars	Exhibit
1	Performa – 12	10
2	Checking Sheet	11
3	Rojkam	12
4	Annexure-4	13
5	Annexure-11	14

6	Letter regarding supplementary bill	15
7	Supplementary Bill	16
8	Letter regarding complaint	17
9	D.P.C. Sheet	18
10	Legal Notice	19
11	Receipt of the notice	20
12	Acknowledgment of the notice	21
13	Complaint	22

5. At the time of recording oral evidence of the plaintiff company, the defendant remained absent and hence, his right to adduce evidence has been closed. In these circumstance, there is no evidence on record on behalf of the defendant.

6. Considering the facts, circumstances and evidence on record, the following issues have been framed by me vide Exh. 6 for determination of the present suit;

1. Whether the plaintiff proves that the plaintiff is entitled to get the suit amount?
2. Whether the plaintiff is entitled to get the interest? If yes, at what rate of interest?
3. Whether plaintiff is entitled to get the relief as prayed for?
4. What order and decree?

7. My findings on the above issues are as follows:

1. In affirmative
2. Partly affirmative
3. Partly affirmative
4. As per final order.

::: REASONS :::

Issue No. 1

8. Heard Ld. Adv. Mr. G. M. Mehta for the plaintiff. He has submitted that plaintiff company has proved its case by oral and documentary evidence. All the documentary evidence are prepared in ordinary course of business of the plaintiff company. Officer of the plaintiff company has no enmity with the defendant, therefore, his version on oath can be relied on. No one remained present on behalf of the defendant to contest the present suit, therefore suit be decreed.

9. To find out substance in submission of learned advocate for the plaintiff, I think it proper to consider oral as well as documentary evidence adduced by the plaintiff. Plaintiff's witnesses Mr. Dharmendrasinh Kanubha Jadeja, Dy. Engineer, Rural Sub-Division, Dhrangadhra has deposed on oath at Exh. 7 that the defendant is residing at Ashok Society, Dhodidhar and he is not legal consumer of the plaintiff company. That on 22/07/2015, the checking squad of the plaintiff-company checked the house of the defendant in presence of the defendant and found that he was committing theft of electricity illegally, directly from the L.T.Line passed nearby his house by connecting a long cable wire, which was seized from the spot. Thus, the defendant was found indulging in power theft and hence, checking sheet was prepared by the officer of the plaintiff-company in which defendant has denied to put his signature and thereafter, procedure was done according to the rules and regulation of the company. As the defendant has committed theft of electricity under Section 135 of the Electricity Act, as per ABCD formula, a supplementary bill was given to the defendant in respect of power theft and also informed to pay the same in the office of plaintiff company, but the defendant has not paid any amount towards the power theft, therefore a legal notice was issued on to the defendant but he failed to tender the said amount of power theft.

10. In support of this oral version, the witness of the plaintiff company has produced documentary evidence vide Exh. 10 to 22 which were referred above and considered. The said documentary evidence, especially the checking sheet produced at Exh. 11 clearly shows that the defendant was indulging the power theft illegally. Not only that, but in the said document, he has not put his signature. Looking to the Performa-12 produced vide Exh. 10, it shows that Rs. 5391.14 paisa is due to recover from the defendant for which the plaintiff company has served the legal notice dated 15/02/2018 by registered post A.D. which is produced on record at Exh. 19. The said notice has been served to the defendant. Thereafter also, the defendant has not given any heed to pay the due amount, which shows that the defendant has indirectly admitted the procedure and he has indirectly admitted that he was found indulging the power theft illegally and thus, the conduct of the defendant shows that as he is guilty, he has not given the co-operation to the plaintiff company. Thus, considering above all the oral as well as documentary evidence on record, it is found that the defendant has committed the power theft and thus, the procedure adopted by the plaintiff company is quite legal and proper in the eyes of law. Moreover, the defendant has not tried to remain present before the Court though the notice was served upon him. In these circumstances, the pleading and oral evidence of the plaintiff company remains unchallenged. Oral evidence is supported by the documentary evidences produced vide Exh. 10 to 22, therefore, considering the oral as well as documentary evidence, it is clearly established that the defendant was found indulged in theft of electricity therefore, he is bound to pay the amount of Rs. 3901.51 ps. towards energy charge amount, hence I reply issue no. 1 in affirmative accordingly.

Issues Nos. 2 & 3:-

11. So far as interest is concerned, the plaintiff has prayed for 18% interest on the due amount from the date of filing of the suit till its realization from the defendant, but there is no specific contract between the parties as to the rate of interest. In the special circumstances and in absence of any specific contract regarding rate of running interest, the rate on which moneys are lent or advanced by the Nationalized Bank can be awarded and at present looking to the rate of interest of Nationalized Bank, if the direction would be given to pay 9% interest p.a. on the suit dues, it would be just, reasonable and proper, and therefore, the plaintiff is entitled to recover Rs. 3901.51 paisa with interest at the rate of 9% p.a. from the date of institution of the suit till its realization hence, I reply nos. 2 and 3 in partly affirmative.

Issue No. 4:-

12. As discussed herein above, the plaintiff company has succeeded to prove issue Nos. 1 to 3 and hence, for issue no. 4, following final order is passed in the interest of justice.

:-O R D E R:-

1. The present suit of the plaintiff is hereby partly allowed.
2. The plaintiff company is entitled to recover Rs. 3901.51/- from the defendant toward suit bill with interest rate of 9% p.a. from the date of filing of the suit till its realization.
3. Parties shall bear their own cost.
4. Decree be drawn accordingly..

Pronounced & signed in the open Court on 1st January, 2019.

Date : 01/01/2019
Dhrangadhra

[Mr. S. M. Rajpurohit]
Additional District Judge,

Dhrangadhra
Code: [GJ 00 544]