

Suit instituted on	05	06	2023
Registered on	05	06	2023
Decided on	15	09	2023
Duration	Y.	M.	D.
	0	3	11

Exh. No. 13

**IN THE COURT OF THE ADDITIONAL JUDGE,
SMALL CAUSES COURT, AT RAJKOT**

Small Civil Suit No. 717/2023

PLAINTIFF

Paschim Gujarat Vij. Company Ltd.

Through its engineers,

Ranchhodnagar, sub division,

R A J K O T

V E R S U S

defendant

Kunwarben Keshubhai Charoliya,

Address:

Maldhari society,

B/h.Marketing yard,,

R A J K O T.

Sub:Suit for recovery of an amount of Rs.23,954-81ps.

Appearance:-

V.N.Nimbark, learned advocate for the plaintifff.

The suit proceeded against the defendant as **an exparte.**

:: J U D G E M E N T ::

1. The plaintiff is a statutory body and re-established under Gujarat Electricity Industries (Re-organization and Regulation) Act, 2003. The plaintiff is a limited company doing its business to provide electricity to the consumers. The defendant was consuming electricity by obtaining electric connection Vide. consumer number **87203/21123/1** as mentioned in the suit and the defendant is responsible for the payment of electricity. The amount of electric consumption of **Rs.23,954-81ps.** is due from the defendant as per bill. and looking to the bill defendant has consumed electricity from **December-January 2021 to October-November 2022.** That as per account of the defendant, the defendant is become found due to the sum of **Rs.23,954-81ps.** The cause of action has arisen for the plaintiff to file this suit against the defendant at the time when the defendant is become found due towards consumption of electricity bill and after giving the notice to the defendant. So, the plaintiff instituted the present

suit for recovery of due amount of **Rs.23,954-81ps.**

2. The summons of the suit has been issued which have been duly served to the defendant vide Ex.5 and in response to the same, the defendant was not remained present before the court thereafter, an ex-parte order passed below plaint Exh.1 on **07/08/2023** under Order-IX, Sub-Rule (1) of Rule-6 of the C.P.C.

3. In support of this suit, the plaintiff has produced following oral as well as documentary evidence.

ORAL EVIDENCE

No.	Name of Witness	Exh. No.
1	An affidavit of the plaintiff's witness Mr. Bharatbhai Maganbhai Kotadiya	07

DOCUMENTARY EVIDENCE

No.	Details of Documents	Exh. No.
1	Perfoma No.12	8
2	Office Note	9
3	Consumer Ledger-145	10
4	Ledger Copy	11
5	Certificate	12

4.The following issues have been framed at **Ex.6** for determination of the suit.

1	Whether the plaintiff is entitled for recovery Rs.23,954-81/- from the defendant?
2	Whether the plaintiff is entitled for the interest? If yes, at what rate?
3	Whether plaintiff proves that suit is within time limit?
4	What order and decree?

5.My findings on the above issues are as under.

1	In the Partly affirmative.
2	In the partly affirmative @ 6%.
3	In the Affirmative.
4	As per final order

6. I have heard the arguments of the Learned Advocate for the plaintiff and he has argued on the pleadings as well as oral and documentary evidence produced by the plaintiff. Mainly, he has argued that the defendant are a consumer of the plaintiff and the defendant have not paid the amount of electricity bill and the defendant are become found due to sum of **Rs.23,954-81ps.** and he has requested to allow the plaintiff's suit.

7. The defendant did not choose to remain present during the trial of the suit. My reasons for findings of the issues are discussed hereinafter.

R E A S O N S

Issues Nos. 1

8. The plaintiff's side **Mr. Bharatbhai Maganbhai Kotadiya** has filed his affidavit at Ex.7 wherein he has reiterated the facts of suit. Mainly he has stated that he is serving as Deputy Engineer in the plaintiff company and he is well conversant with the facts of suit. He has stated that the defendant is consumer of the plaintiff and he is consuming electricity and after giving notice to the defendant, the defendant did not take care to pay due amount of plaintiff. Further he has stated that the defendant is become found due to the amount of **Rs.23,954-81ps.** and he has prayed to grant the relief as per the suit by passing decree in favor of the plaintiff P.G.V.C.L.

9. In this suit, the plaintiff P. G. V. C. L. has

produced the documentary evidence at **Ex.8 to 12**. The plaintiff P. G. C. V. L. has stated that the defendant are become found due to the sum of **Rs.23,954-81ps.** and in this regard, the plaintiff P. G. C. V. L has produced **Performa No.12** vide **Ex.8**. That after service of said notice to the defendant, the due amount has not been paid by the defendant till today and, therefore, the present suit instituted for recovery of the amount from the defendant as prayed for. The evidence of the plaintiff is remained unchallenged as the defendant did not choose to remain present in the suit. The plaintiff P. G. V. C. L. has proved the facts of it's suit claim by producing oral as well as documentary evidence as discussed above and there is no reason to disbelieve the same in absence of any kind of evidence from the defendant's side and accordingly. but looking to the evidence produced by the plaintiff there is no any specific averment regarding the charging of delay payment charges. Therefore, I am of the opinion for that plaintiff is not entitles for delay payment charges of

Rs.2833-40ps. Thus, plaintiff has proved that the defendant is become found due to the sum of **Rs.21,121-41ps.** In view of above, the plaintiff is entitled to recover **Rs.21,121-41ps.** from the defendant and accordingly, I give my finding on **issue No. 1** in the '**Party Affirmative**' .

Issues No. 2

10. The plaintiff has claimed interest on the suit amount at the rate of **15% per annum**, but no agreement and not claim the **15% interest** in the notice issues by the plaintiff. There for according to legal position prevailing on the subject and as per the section 34 of CPC the plaintiff is entitled for interest of the said amount at the rate of **6% per annum**. There for plaintiff would be entitled to get the interest at the rate of **6% per annum** of the plaint amount. hence the above discussion the answer of the **issues No. 2** is "**Partly Affirmative**".

Issues No. 3

11. Further, having gone through Proforma-12 produced by the plaintiff and in absence of written

statement as well as any kind of evidence from the defendant's side, it is found that suit is within the limitation. Accordingly, my finding of issue No. 3 is given in the '**Affirmative**'.

Issues No. 4

12. In view of aforesaid discussion and considering the arguments advanced by Ld. Advocate for the plaintiff, the plaintiff has proved to the facts of **issue no.1 to 3**, therefore plaintiff is entitled to get the relief as per his plaint with above discussion. Hence in the interest of justice, I pass the following final order towards issue no. 4.

-:: O R D E R ::-

(1) The plaintiff's suit is hereby partly allowed.

(2) The defendant is hereby ordered to pay **Rs.21,121-41ps.**(Rupees twenty one thousand one hundred twenty one and forty one paisa Only) along with interest at the rate of **6% p.a.** from the date of the filling of this suit till its realization to the plaintiff.

(3) The defendant is ordered to pay the costs of the suit to the plaintiff and to bear his own, if any.

(4) Decree be drawn accordingly.

Order signed and pronounced in the open court today on this 15th day in the month **September - 2023.**

Date : 15/09/2023

Place : Rajkot

(Nitinchandra N. Dave)

Additional Judge,

Small Cause Court,

Rajkot.

UID - GJ01069