

Received on : 07.12.2017
Registered on : 07.12.2017
Decided on : 04.08.2018
Duration : DD MM YY

IN THE COURT OF 3rd ADDITIONAL DISTRICT JUDGE, U N A.

**SPECIAL CIVIL SUIT (Electricity) No. 1772/2017.
EX.-17.**

PLAINTIFF :

Paschim Gujarat Vij Company Ltd.,
Supplying electricity having head office
situated at Rajkot and out of other offices
this sub division office situated at Gir gadhada.

V E R S U S

DEFENDANT :

Jigneshbhai Madhabhai Gohil,
Age : 37, Occupation : Agriculture,
R/o Intvaya, Tal : Gir gadhada.

**Subject : Suit to recover the power theft amount of Rs. 11,037.26
Ps. U/S 154(5) of Electricity Act, 2003.**

- Ld. Advocate Mr. A.N. Deshaval for plaintiff.
- Ex-parte against the defendant.

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

(1) The short facts given rise to the present suit are as under :-

The defendant is neither a legal consumer nor he has legally obtained electric connection from the plaintiff company. The

plaintiff has alleged that on dtd. 11/03/2016, the officers of the plaintiff company was in the checking in the electric supply connection of the defendant and during checking it was found that the defendant was using the electricity unauthorized and consuming electricity illegally without permission of the plaintiff company and caught by doing power theft. Thereby, officers of the checking squad has done the legal procedure and prepared a necessary documents on the spot and issued the theft electricity bill of Rs. 9,865.56 Paise to the defendant. Thereafter on non payment of the said bill, plaintiff company has issued the legal notice to the defendant through advocate though has not given any heed to pay the bill of the plaintiff, hence, it was compelled to file the suit. Therefore, as per the rule of plaintiff company, if any body fails to pay the amount of bill within 15 days, then D.P.C is to be charged. Thereby, defendant is responsible to pay the suit amount with D.P.C.. Therefore, plaintiff company has filed the suit to recover the due amount of Rs. 9,865.56 Paise including D.P.C. Rs. 1,171.70 Ps., Notice charge Rs. 00/- and in total Rs. 11,037.26 Paise with compound interest at the rate of 18 % p.a. and pray to draw a decree in favour of plaintiff company.

(2) The notice has been issued and duly served upon the defendant but defendant has not appeared before the Court

though repeatedly called-out, hence, it was ordered to proceed Ex-parte against the defendant.

(3) Following issues are framed vide Ex.6 for the determination of the suit :-

- 1) Whether the plaintiff proves that the defendant has committed electricity theft, as narrated in the plaint?
- 2) Whether the plaintiff company proves that company is entitled to recover amount of Rs. 11,037.26 Ps. and interest thereon from the defendant, as prayed in the plaint ?
- 3) Whether suit is instituted within time limits ?
- 4) What order and decree ?

(4) My findings of the above issues are as under:-

- 1) In the affirmative.
- 2) In the affirmative, at the rate of 6% per annum.
- 3) In the affirmative as per final order.
- 4) As per final order.

(5) To prove its case, the plaintiff has produced their ocular and documentary evidence as under :-

Oral Evidence :-

Ex.7	:	Affidavit for examination-in-chief under C.P.C., Order-18, Rule-4 of Rajeshbhai K. Sharma, Dy. Engineer of plaintiff company.
------	---	---

Documentary Evidence :-

Ex.8	:	Certified copy of rojkam of the spot.
Ex.9	:	Certified copy of inspection report of the spot.
Ex.10	:	Certified copy of theft bill calculation sheet.
Ex.11	:	Certified copy of supplementary bill.
Ex.12	:	Office copy of legal notice issued by the advocate to the defendant.
Ex.13	:	Acknowledgment receipt with signature.
Ex.14	:	Certified copy of ledger of defendant's account.
Ex.15	:	Original sanction order.
Ex.16	:	Closing pursis.

:- R E A S O N S :-**ISSUE NO. 1 TO 3 :-**

(6) All the issues are inter connected to each other, so ergo with a view to avoid repetition, I discuss and decide above issues together.

(7) The plaintiff's officer has filed the affidavit in form of examination-in-chief at Exh.7 in support of plaint as per O.18, R.4 of C.P.C. and in such affidavit plaintiff's officer is

supporting the facts of the plaint. The plaintiff's deposition in affidavit has not been cross-examined by the defendant. So the affidavit is supporting the facts of the suit. Plaintiff has produced documentary evidence to prove its case vide Exh.8 to Exh.16 as described in Para-5. Hence, the plaintiff's documentary evidence and chief-examination of the plaintiff's witness are unchallenged from the defendant's side, therefore, there is no reason to disbelieve plaintiff's evidence.

(8) On perusal of the ocular and documentary evidence produced by the plaintiff company, it is proved that checking squad of plaintiff company visited at defendant's place on dtd. 11/03/2016 and have found that defendant had taken direct electric connection from the electric line and was consuming the electricity. Defendant was not the consumer of the plaintiff company though using the electricity illegally. Thus the defendant has been found out dishonestly using, consuming and abstracting the electric energy and committed the act of theft of electricity. The checking squad has prepared a power theft bill of Rs. 9,865.56 Ps. and issued to the defendant but defendant has failed and neglected to make the payment of the same, hence, the suit is filed. Therefore, it is crystal clear that the defendant has committed the theft of electric energy and liable to pay the theft electricity bill of Rs. 9,865.56 Paise including D.P.C. Rs. 1,171.70 Ps. and Notice charge Rs. 00/-

and in total Rs. 11,037.26 Ps. with interest to the plaintiff company.

(9) Further, plaintiff company has prayed for compound interest at the rate of 18% p.a., but, in this suit between the parties there is no specific contract for interest therefore as per section 34 of C.P.C., plaintiff is entitled to get relief of the interest at the rate of 6% on the due amount of the suit from the defendant.

(10) Therefore, in view of the above discussion, plaintiff company is entitled to recover the suit amount of Rs. 11,037.26 Ps. with simple interest at the rate of 6% p.a. from the date of filing of the suit till the realization of the suit amount from the defendant. And in view of my above discussion, I answer Issue Nos. 1 to 3 accordingly and for Issue No. 4, following order requires to be passed.

-:: ORDER ::-

- The plaintiff's suit is allowed.
- The plaintiff is entitled to recover the suit amount Rs. 11,037.26 Paise (Rupees Eleven Thousand Thirty Seven and Twenty Six Paise Only) with simple interest at the rate of 6% (Six percent) per annum from the date of filing of the suit till the

realization from the defendant.

- The defendant do pay the costs of the plaintiff's suit and bear his own costs.
- Decree be drawn accordingly.

Pronounced in open Court today this 04th day of
AUGUST, 2018.

Date : 04/08/2018.
Place: Una.

[Sanjaykumar Lavjibhai Thakker]
3rd Additional District Judge &
Special Judge (Electricity), Una.
U.Id.No. GJ.00588.