

Suit instituted on	09	03	2018
Registered on	09	03	2018
Decided on	23	03	2018
Duration	Y.	M.	D.
	0	0	14

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

Small Civil Suit No. 182 of 2018.

Exhibit : 12.

<u>Plaintiff</u>	<u>Age</u>	<u>Occupation</u>
Paschim Gujarat Vij. Company Ltd. Through : Its Deputy Engineer, Kuvadva Sub Division, R A J K O T	–	–

V E R S U S

<u>DEFENDANT</u>	<u>Age</u>	<u>Occupation</u>
Lilaben Virjibhai Gadhaaniya Add: Shukal Pipaliya, Ahead of Bahucharaji Pan, Tal & Dist. Rajkot.	Adult	–

Learned Advocate for the plaintiff.....**Mr. J. M. Magdani.**
for the defendant.....Ex-parte.

Suit for : For recovery of Rs. 1,873 = 07 ps.

:: JUDGMENT ::

- 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 a legal connection vide consumer number mentioned in the suit and the defendant is

responsible for the payment of electricity. The amount of electric consumption Rs. 1,873=07 ps. is due from the defendant. The plaintiff sent a notice to the defendant and served on the defendant. However, the defendant did not act upon to pay the due amount. So, the plaintiff instituted the present suit for recovery of due amount with interest.

2. The summons of the suit served on the defendant vide Exh.5 to remain present before the Court. But the defendant was not present on the date fixed for appearance and ex-parte order passed below plaint Exh.1 under Order-IX, Sub-Rule (1) of Rule-6 of the Code of Civil Procedure, 1908 (For brevity "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	Mr. Rikeshkumar Girvatsinh Rathod	7

DOCUMENTARY EVIDENCE

No.	Details of Documents	Exh. No.
1	Proforma - 12	8
2	Office Note	9
3	Computerized statement of account of defendant	10
4	Certificate of maintaining account on Computer (U/s. 65 B) of The Indian Evidence Act.,	11

4. As the suit is small causes, thus framing issue is not necessary.

But, considering O - XX, Rule - 4, Sub-rule (1) Following points are necessary for the determination of the suit.

1	Whether the plaintiff is entitled for recovery of suit amount from the defendant?
2	Whether the plaintiff is entitled for an interest? If yes, at what rate?
3	Whether the suit is within the limitation?
4	What order and decree?

5. My findings of points for determination are as under.

1	Partly in the affirmative.
2	Yes, at the rate of 9% per annum.
3	In the affirmative.
4	As per final order.

6. I have heard the arguments of the Learned Advocate for the plaintiff. The defendant did not choose to remain present during the trial of the suit. My reasons for findings of the points for determination are discussed hereinafter.

REASONS

Points Nos.1, 2 and 3

All points are being discussed altogether only for the sake of convenience.

7. The plaintiff side Mr. Rikeshkumar Girvant Sinh Rathod serving as Deputy Engineer in the company, has deposed at Exh.7 and also produced documentary evidence vide Exh. 8 to Exh. 11 to prove that the defendant being a consumer of the company, consumed electricity of the plaintiff. The due amount demanded through notice, but it has not been paid till today

and, therefore, the present suit instituted for recovery of the amount from the defendant as prayed for.

8. The evidence of the plaintiff is remained unchallenged as the defendant did not choose to remain present in the suit. The plaintiff has proved that Rs. 1,873 =07 ps including amount of delay payment charges, is due amount from the defendant. But plaintiff has not produced evidence to show that it is entitled to charge delay payment charges and, therefore, I am of the opinion that plaintiff is not entitled for delay payment charges. Thus, plaintiff has proved that Rs. 1,409=73 ps. excluding delay payment charges, is due amount from the defendant. The plaintiff has proved the suit. Further, having gone through account statement produced by the plaintiff, it is found that suit is within the limitation. The business of the company is commercial and the Court has power to award interest. The plaintiff is entitled for interest at a rate of 9% per annum from the date of the suit till realization of the amount under section 34 of the C. P. C. Hence, my findings of points for determination are answered accordingly. Relying on the facts and circumstances, the suit deserves to be decreed with cost and following order is passed in the interest of justice.

ORDER

The suit of the plaintiff is hereby Partly Decreed with cost.

The defendant is hereby ordered to pay Rs. 1,409=73 ps. (Rupees One Thousand Four Hundred Nine and Seventy Three Paise) with interest at a rate of 9% per annum from the date of the suit till the realization of decretal amount.

The defendant is ordered to bear the costs of the plaintiff and to bear his own, if any.

Decree be drawn accordingly.

Pronounced in the open Court today on this 23rd day of March, 2018.

R A J K O T
DATE :23-03-2018.

[M.Y. RADHANPURWALA]
JUDGE
SMALL CAUSES COURT
R A J K O T
Unique ID Code No.GJ00734.