



Suit instituted on	13	10	2020
Registered on	13	10	2020
Decided on	30	12	2023
Duration	Y.	M.	D.
	03	02	17

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

Small Civil Suit No.906/2020

Exh. No. 16

PLAINTIFF

Paschim Gujarat Vij. Company Ltd.

Through its engineers,

Vavdi Urbun, sub division,

R A J K O T

V E R S U S

Defendants

Nathiben Tapubhai Jadav

Address:

Nagbai M. Para,

Nr.Old Tole Naka,

Kothariya,

Gondal Road,

R A J K O T.

Sub:Suit for recovery of an amount of Rs.9,173.18/-ps.

Appearance:-

Mr. D.R.Khandhedia, learned advocate for the plaintiff.

The suit proceeded against the defendants as an exparte.

Judge, Small Cause Court, Rajkot.

-:: 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 defendants was consuming electricity by obtaining electric connection Vide. Consumer number **34513/25428/9** as mentioned in the suit and the defendants are responsible for the payment of electricity. The amount of electric consumption of **Rs.9,173.18/-ps.** is due from the defendants as per bill. and looking to the bill defendants has consumed electricity from **April 2017 to March 2020**. That as per account of the defendants, the defendants are become found due to the sum of **Rs.9,173.18/-ps.** The cause of action has arisen for the plaintiff to file this suit against the defendants at the time when the defendants are become found due towards consumption of electricity bill and after giving the notice to the defendants. So, the plaintiff instituted the present suit for recovery of due amount of **Rs. 9,173.18/-ps.**

2. The summons of the suit has been issued which has been duly served to the defendant **by way of publication** vide **Ex.7 and Mark-7/1** and in response to the same, the defendant was not remained

present before the court thereafter, the defendant was not remained present before the court thereafter, an ex-parte order passed below plaint Exh. 1 on **21/11/2023** 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. Sailesh Kacharabhai Shiyara	09

DOCUMENTARY EVIDENCE

No.	Details of documents	Exh. No.
1	Performa-12	10
2	Office note	11
3	Ledger copy	12
4	Reg. Collum Form	13
5	Rojkam of Miter Replacement	14
6	Notice	15

4. In this suit, the following issues have been framed at **Ex.8**.

1	Whether the plaintiff Company proves is entitled to recover amount as per plaint (Exh. 1) from the defendant ?
2	Whether the plaintiff is entitled to recover the interest? If yes, at what rate?

3	Whether plaintiff proves that suit is within the limit ?
4	What order and decree?

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

REASONS

Issues Nos. 1

8. The plaintiff's side **Mr. Sailesh Kacharabhai Shiyara** has filed his affidavit at **Ex.9** 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 defendants are consumer of the plaintiff and he is consuming electricity and after giving notice to the defendants, the defendants did not take care to pay due amount of plaintiff. Further he has stated that the defendants are become found due to the amount of **Rs.9,173.18/-**

ps. and he has prayed to grant the relief as per the suit by passing decree in favour of the plaintiff P.G.V.C.L.

10. In this suit, the plaintiff P. G. V. C. L. has produced the documentary evidence at **Ex.10 to 15** The plaintiff P. G. C. V. L. has stated that the defendants is become found due to the sum of **Rs.9,173.18/-ps.** and in this regard, the plaintiff P. G. C. V. L has produced **Proforma No.12** vide **Ex.10**. That after service of said notice to the defendants, the due amount has not been paid by the defendants till today and, therefore, the present suit instituted for recovery of the amount from the defendants as prayed for. The evidence of the plaintiff is remained unchallenged as the defendants 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. 3,072.63/-ps.** Thus, plaintiff has proved that the defendants are

become found due to the sum of **Rs.6,100.55/- ps.** In view of above, the plaintiff is entitled to recover **Rs.6,100.55/- ps.** from the defendants and accordingly, I give my finding on **issue No. 1** in the "**Partly Affirmative**".

Issues No. 2

11. The plaintiff has claimed interest on the suit amount at the rate of **12% per annum**, but no agreement and not claim the **12%** 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

12. 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

13. 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 defendants are hereby ordered to pay **Rs.6,100.55/-ps.** (Rupees Six thousand One hundred and Fifty Five paisa Only) along with interest at the rate of **6% p.a** from the date of the filing of this suit till its realization to the plaintiff.

(3) The defendants are 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 30th
day in the month **December - 2023**.

R A J K O T

Date :30/12/2023

(CHANDRASINH PRATAPSINH CHARAN)

Judge,
Small Cause Court,
Rajkot
(UID - GJ01483)