

Received on : 11/10/2022
Registered on : 11/10/2022
Decided on : 27/09/2024
Duration : DD/MM/YY
16/11/01
Exhibit : 20

**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,
RADHANPUR**

R.C.S. No. 71 OF 2022

Plaintiff : Uttar Gujarat Vij Co. Ltd., Radhanpur-2,
through its Deputy Engineer, UGVCL,
Deputy Engineer Office, Radhanpur,
Dist. Patan.

Versus

Defendant : **Lr. Of Maghara Mirmamad Orasbhai**
Orasbhai (Urasbhai) Mirmamad Maghara,
Adult, Occupation : Farming,
R/o. Karshangadh, Tal. Radhanpur,
Dist. Patan.

Re: - **Suit for recovery of Rs.10,021.95 ps.**

Appearance:

For the Learned Advocate for the plaintiff - Mr. A. M. Shekh
Defendant - Exprte

J U D G M E N T

[1] The concise statement of the plaintiff's case is that Urja Vikas Nigam Ltd. is an enterprise of the Government of Gujarat. Zone wise various power companies are established. Uttar Gujarat Vij Company Ltd. is managed under Urja Vikas Nigam. Which mainly handles the operation of distribution and sale of power supply. The circle office of U.G.V.C.L. Company Ltd. is located at Palanpur, while its division office and sub division office are located at Radhanpur. The plaintiff is the Deputy Engineer of Radhanpur Sub Divisional Office. Defendant is the consumer of the plaintiff board, his **customer number is 76660000640**, defendant was provided electricity connection for residential purpose consumption. The defendant has entered into an agreement with the plaintiff company and defendant has agreed to pay the electricity bill regularly.

[2] Plaintiff has regularly issued electricity bills to defendant for the consumption of electricity. But the defendant has not regularly paid the bill amount of his electricity connection since long time and thus the defendant has been negligent and irregular in paying the electricity bills. Although the defendant was repeatedly informed by the plaintiff company, and inspite of insisting to pay the previous due amount even in the electricity consumption bill issued by the plaintiff company, the defendant has not paid the electricity bill or the arrears of electricity bill to the plaintiff company. Therefore the electricity connection of the defendant has been permanently disconnected

on **dt. 23/11/2021**. Therefore the plaintiff company is entitled to recover the following amount from the defendant;

Rs.6,728.42	Outstanding amount of ele. Consumption
Rs. 120.00	Fix Charge
Rs.486.09	Ele. Duty
Rs.2,687.44	D.P.C. from dt. 20/09/2022
Rs.10,021.95	Total outstanding amount.

[3] For the above dues, plaintiff Company time and again informed the defendant, but, defendant has not paid the due amount. Therefore, plaintiff company has filed this suit to recover the afore-stated amount with **18%** interest and cost.

[4] The summon was issued by the court to the defendant and it was duly served to the defendant, but the defendant did not remained present before this court, therefore the present suit has been tried exparte against defendant.

[5] Issues are framed vide **Ex.05**, which are as under :-

- (૧) શું વાદી પુરવાર કરે છે કે, પ્રતિવાદી વાદી સંસ્થાના ગ્રાહક છે ?
- (૨) શું વાદી પુરવાર કરે છે કે, પ્રતિવાદી પાસે વાદી સંસ્થાના છેલ્લા ત્રણ વર્ષના વિજ વપરાશના બીલ પેટે કુલ રૂ.૬,૭૨૮.૪૨ પૈસા બાકી લેણા બિકેળે છે ?

- (૩) શું વાદી પુરવાર કરે છે કે, વાદી પ્રતિવાદી પાસેથી વિજ વપરાશના બીલની લેણી રકમ રૂ.૬,૭૨૮.૪૨ પૈસા વસુલ મેળવવા હક્કદાર છે ?
- (૪) શું વાદી પુરવાર કરે છે કે, વાદી સંસ્થા પ્રતિવાદી પાસેથી વિલંબીત ચાર્જના રૂ.૨,૬૮૭.૪૪ પૈસા તથા ફીક્ષ ચાર્જ તથા ઇલે. ડ્યુટીની રકમ વસુલ મેળવવા હક્કદાર છે ?
- (૫) શું વાદી પુરવાર કરે છે કે, તેઓ કોઈ વ્યાજ મેળવવા હક્કદાર છે ? જો હા તો કયા દરે ?
- (૬) શું વાદીનો દાવો સમય મર્યાદામાં છે ?
- (૭) શું વાદી દાવામાં માગ્યા મુજબની દાદ મેળવવા હક્કદાર છે ?
- (૮) શું હુકમ અને હુકમનામું ?

[5.1] Finding and reasons of above issues are as under :-

- (1) In Affirmative.
- (2) In Affirmative.
- (3) In Affirmative.
- (4) In Negative.
- (5) In Affirmative, as per the final order
- (6) In Affirmative.
- (7) In Affirmative.
- (8) As per the order.

:: R E A S O N S ::

[6] Plaintiff has produced the following oral as well as documentary evidence :-

Exhibit	Particulars
11	Affidavit of Dharmikbhai Mr. Saurabhkumar Ghanshyambhai Patel , Dy. Engineer of the plaintiff company
13	Proforma - 12
14	Interest calculation sheet
15	PDC Site Checking Report
16	Notice for PDC
17	Legal Notice serve upon defendant
18	Statement of consumer meter
19	Account Ledger

Closing pursis at **Ex.20** by the learned Advocate for the plaintiff.

[7] Heard learned Advocate for the plaintiff. In this case on behalf of the plaintiff-company, **Mr. Saurabhkumar Ghanshyambhai Patel**, Dy. Engineer of the company has submitted his examination-in-chief at Exh.11. In his examination-in- chief plaintiff has deposed according to the plaint and fully supported the averments and facts of the plaint. Further he has referred the documents produced at Exh 13 to 19 and proved the contents and execution of the said documents.

[8] On going through the documents produced by the plaintiff company and particularly from the application at Exh-13 to 19 it transpires that plaintiff is an electricity company and the defendant is its consumer. Plaintiff company has provided an electricity connection to the defendant. the defendant had availed electricity connection from the plaintiff company and it was agreed that the defendant shall regularly pay the bill for consumption of electricity. But the defendant has not paid the same. So in the ledger account maintained by the plaintiff company there was an outstanding amount towards consumption of electricity as stated in the plaint. Further looking to the notice produced by the plaintiff company it transpires that, the plaintiff company has time and again informed the defendant to pay his dues. In spite of this fact defendant has not paid his due to the plaintiff company, which is reflected in the ledger account maintained by the plaintiff company. From the statement of account produced at exh. 19 it transpires that **Rs.6,728.42 ps.** was outstanding on Nov-2021, this statement shows the transactions of the bills and payment, and it is maintained by the plaintiff company as per the prevailing practice and as per the rules and regulations. So there is no reason to disbelieve it. So as per the documentary evidence it is clear that, the defendants have not timely repaid the loan amount as agreed.

[9] Looking to the record the defendant has enough opportunities to rebut the evidence produced by the plaintiff company, but the defendant has neither filed any reply

nor produced any documentary evidence to rebut this evidence. Moreover defendant has not taken any care to cross examine the averments made by the plaintiff in his examination-in-chief, and has also not produced his defence. In this circumstances all the evidence produced by the plaintiff company have remained unchallenged. Considering the oral as well as documentary evidence produced on record, it is very clear that, defendants has availed electricity connection from the plaintiff company, but he has not regularly paid the electricity bill, and on the date of this suit there is an outstanding amount as mentioned in the plaint. Therefore the plaintiff company is entitled to recover this outstanding amount of from the defendant, Hence I answer the issue no. 1 to 3 in affirmative.

[10] Further the plaintiff company has also added the delay payment charge, fix charge, ele. Duty etc, on the due amount. But Plaintiff company has not produced any document or agreement to show that there was any recitals between the parties for the payment of delay charges and other charges on such due amount. Looking to the documents produced on record it seems that, the plaintiff company has failed to prove that how it is entitled to recover such delay payment charges. So the plaintiff company is not entitled to recover such delay payment charges. Therefore I answer the above issue no. 4 in negative.

[11] So far as the issue of limitation is concerned. It is evident from the record that, due to non-payment of electricity bills the electricity supply of the defendant was discontinued. Than after inspite of service of final notice to repay

the due amount defendant has not made any payment. So the electricity connection of the defendant was permanently disconnected on dt. 23/11/2021. Than after the plaintiff company has filed the present suit on dt.11/10/2022. So there is no question of limitation arises. Hence I answer the issue no. 6 in affirmative.

[12] Now so far rate of interest is concerned, plaintiff bank has claimed interest at the rate of 9 % p.a., It is also noteworthy that plaintiff company is an electricity company which is engaged in distribution of electricity, and for this purpose the plaintiff company has to lay-down supply line, install lamp-posts, fidders and other equipments, further all these lines etc, are also required to be maintained regularly. So for the purpose of distribution and supply of electricity plaintiff company has to bare much expense. Defendant has not paid the legal charge of the company, and occupied the due amount which effects the financially capacity of the company and also results into the loss of public money. Therefore the plaintiff company is required to be paid interest. In the case of UNION BANK OF INDIA v. NARENDRA PLASTIC, BHAVNAGAR & OTHERS, cited at 1990(2) G.L.R. 1283 GUJARAT, the Hon'ble High Court decided that granting of contractual rate of interest should be the rule and departure a rare exception. In the present case plaintiff company has not produced any reliable evidence to prove the facts regarding rate of interest. So now considering the provision of section 34 of the Civil Procedure Code and prevailing rate of interest of the Nationalized Banks,

interest @ 6 % would be just and proper. Therefore in view of the above discussion I answer the issue no.5 in affirmative. In view of the above discussion of the evidence it is proved that the plaintiff company is entitled to recover the due amount with interest as stated above. Therefore I answer the issue no.7 in partly affirmative and for issue no. 8 I pass following final Order :-

-// F I N A L O R D E R \\\-

- Suit is partly allowed.
- Plaintiff Board is entitled to recover the due amount of electricity bill of **Rs.7,334.51 ps.** With **6 %** interest from the date of suit till its realization. And defendant is hereby ordered to pay the said amount to plaintiff board.
- Defendant bear his cost and also bear the cost of the plaintiff.
- Decree be drawn accordingly.

Pronounced in the open Court today, this 27th Day of **September, 2024.**

RADHANPUR
DATE :27/09/2024

(MANISH BHARATBHAI NIMAVAT)
Principal Senior Civil Judge,
Radhanpur
UID CODE NO. GJ00971