

Received on: 01/01/2018
Registered on: 01/01/2018
Decided on: 21/04/2018

Duration: Yrs. Mts. Dys.

Exh. 19

IN THE COURT OF PRIN. CIVIL JUDGE, LODHIKA, AT LODHIKA
REGULAR CIVIL SUIT NO.01/2018

PLAINTIFF: **Paschim Gujarat Vij Company Ltd**, Company registered under Reorganization and Regulation Act-2003, Head Office at Vadodara, Corporate Office at Rajkot and Sub Division office at Metoda, Ta.Lodhika.

Versus

DEFENDANT: Sanjaykumar Mansukhbhai Umrethiya
Aged about : Major, Occupation : Bussiness,
Residing at :Opp. Kishan gate; wing no. F-103;
Metoda, Ta-Lodhika.

Subject : Recovry of Money.

Shri S. L. Patel, Learned Advocate for the plaintiff.
Ex-party against defendant.

JUDGMENT

A-: Plaintiffs Case:-

- 1] The plaintiff has filed the present suit for the recovery of Rs. **2507/- (Rs. Two Thousand Five Hundred seven only)**. It is the say of the plaintiff that the plaintiff is the company under Reorganization and Regulation Act, 2003. Under the same Act, the responsibility and rights to collect and pay of Gujarat Electricity Board has been transferred to Paschim Gujarat Vij Company, the head office of the same at Vadodara, Corporate Office at Rajkot and,Sub Division office at Metoda, Gramya Sub division at Metoda Ta. Lodhika. The defendant is the consumer

of the plaintiff company vide consumer no. **88249/06593/0**. All the bills of electricity consumption are given in the name of the defendant and that the entries of the respective bill are done in the ledger register of the plaintiff. The plaintiff is entitled to bring the suit for the recovery of the amount of the bill.

- 1.1] It is further the say of the plaintiff that total bill of electricity consumption till the month July-August 2017 amounting to Rs. **2507/-** was due. The defendant has not paid the amount of the bill of electricity Consumption regularly. As the defendant has not paid the bill amount regularly, the defendant is entitled to pay the same along with the delay payment charges of 15 % . Inspite of demanding the same again and again and sending the notice, the defendant has not paid the respective amount. Hence, the present suit for recovery of Rs. **2507/-** at the rate of 15 % per annum from the institution of the suit till its realization.

B:-Defence of defendants:-

- 2] Though the defendant has been duly served with the summons, the defendant has not remained present before the present Court either personally or through pleader in spite of giving enough opportunities. As such, the right of the defendant to file written statement was closed and the suit proceeded ex-party against the defendant.

C:- Issues:-

- 3] Following issues were framed vide exhibit 9 for deciding the present suit on hand -
- 1] Whether the plaintiff proves that the defendant is its consumer?
 - 2] Whether the plaintiff proves that it is entitled to recover Rs. **2507/-** from the defendant?

- 3] Whether the plaintiff proves that it is entitled to get interest? If yes, at what rate?
- 4] Whether the plaintiff proves that it is entitled to reliefs as prayed for?
- 5] What order and decree?

D:-Reply to Issues:-

4] My reply to above mentioned issues are as follow :

- 1] In Affirmative,
- 2] In Affirmative,
- 3] In Affirmative, at the rate of 6%,
- 4] In Partly Affirmative,
- 5] As per final order.

E: Evidences produced by Parties:-

5] The plaintiff has produced the following oral and documentary evidences –

Evidence produced by plaintiffs:

Oral Evidence:

Exhibit 11 Deposition of Hirenkumar Hashmukhbhai Ganatra,
Deputy Engineer, PGVCL.

Documentary Evidence :

Exhibit 13 office copy of Notice given to defendant through
R.P.A.D. dated 09/10/2017.

Exhibit 14 Acknowledgement of R.P.A.D.

Exhibit 15 Extracts of Ledger Account with DPC .

Exhibit 16 PERFORMA NO-12

Exhibit 17 History of case.

The plaintiff has produced the closing pursish vide exhibit 18.

Evidence produced by Defendants:

6] Inspite of giving enough opportunities to the defendant, the defendant has not remained present before the present Court

and has not produced any evidence.

(F):-Arguments:-

- 7] The plaintiff Ld. Advocate argued that The Plaintiff has filed affidavit at Ex.11 and documentary evidence at Ex.13 to 17. The Plaintiff has narrated all the facts of plaint in his affidavit. The defendant has not challenged any of the fact, as he remained absent before the court and not filed his documentary or oral evidence. After consumption of electricity , the defendant has not paid the due amount of bill. The Plaintiff has even produced oral and documentary evidence to prove the bill amount so plaintiff has proved the fact of the case and defendant is liable to pay suit amount and plaintiff is entitled to recover the suit amount from the defendant as prayed for.

whereas the defendant has not done any argument.

G:- Reasons for reply:-

REASONS

Issue no. 1 and 2:-

- 8] The issue no. 1 is “Whether the plaintiff proves that the defendant is its consumer?” and Issue no. 2 is “Whether the plaintiff proves that it is entitled to recover Rs. Rs. **2507/-** from the defendant?”. The plaintiff has averred the same in his plaint as well as examination in chief that the defendant is his consumer. The solitary witness Hirenkumar Hashmukhbhai Ganatra examined vide Exh.11 has in his examination-in-chief mainly stated that the plaintiff Board is a Statutory Corporate Body engaged in supplying electricity in the State of Gujarat and has Sub-Divisions in different Districts and Talukas. The defendant was provided the electricity connection. The defendant had paid different amounts on different dates. The

defendant is not paying amount of Rs. **2507/-** towards electricity consumption. That despite being called upon the defendant has failed to make payment of the said outstanding amount and therefore the plaintiff has been constrained to approach this Court for recovery of the said amount including the delay payment charges @ 15 % p.a. The said witness has during the said examination-in-chief proved the aforementioned documents.

Taking the aforementioned unchallenged pleadings as well as the oral and documentary evidence conjointly into consideration it is apparent that the defendant is consumer of the plaintiff who has failed to outstanding amount of the bill amounting to Rs. **2507/-** which includes the charges towards consumption as well as other applicable charges. From the notice Exhibit 13 and 14 dated 09/10/2017 it is apparent that the defendant was called upon to make payment of the outstanding amount which the defendant has failed to pay despite the said notice being duly served and therefore the issue no.1 and 2 are answered in affirmative.

Issue no. 3 and 4:-

- 9] Issue no. 3 is “Whether the plaintiff proves that it is entitled to get interest? If yes, at what rate?” and Issue no. 4 is” Issue no. 4 is “Whether the plaintiff proves that it is entitled to reliefs as prayed for?”.Once again taking the unchallenged pleadings, documentary and oral evidence into consideration it is apparent that the plaintiff has filed the present suit on 01/01/2018 seeking recovery of the amount outstanding towards bills, the present suit is within limitation. The plaintiff is entitled to reasonable interest on the outstanding amount at a rate not exceeding 6% p.a. from the date of the institution of the suit till its realization. Accordingly Issue no. 3 and 4 are

answered and following order is passed in the interest of justice -

ORDER

The suit of the plaintiff is partly allowed.

The plaintiff is entitled to recover from the person and properties of the defendant Rs.**2507** /- with interest at the rate of 6% p.a. from the date of suit till realisation.

The parties shall bear their own cost.

Decree be drawn accordingly.

Order read and pronounced in the open court on 21st day of April, 2018.

Dt. 21/04/2018.

(Tanmay Girishchandra Shukla)

Principal Civil Judge, Lodhika.

Unique Code GJ01105.