

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Constitution Petition No. S-235 of 2026

Before:-
Mr. Justice Ali Haider 'Ada'.

Petitioner : Irfan Ali Memon S/o Muhammad Yousif Memon *through* Mr. Zamir Ali Shah, Advocate.

Respondent : Sui Southern Gas Company *through* Mr. Abid Hussain Qadri, Advocate.

Mr. Riaz Hussain Khoso, Deputy Attorney General for Pakistan.

Date of Hearing : 28.08.2026

Date of Decision : 28.08.2026.

Date of Reasons : 31.08.2026.

ORDER

Ali Haider 'Ada' J:- The petitioner has assailed the order dated 17.06.2026 passed by the learned District Judge, Larkana, (trial Court) in Suit No.15 of 2026, instituted by Sui Southern Gas Company (SSGC) for recovery of the amount under the Gas (Theft Control and Recovery) Act, 2016. The petitioner was impleaded as a defendant in the said suit and, being aggrieved, moved an application under Order VII, Rule 11, C.P.C., seeking rejection of the plaint. The said application, however, was dismissed by the learned trial Court through the impugned order, hence the instant petition.

2. The crux of the matter is that the SSGC instituted a suit for recovery against the petitioner under Section 6 of the Gas (Theft Control and Recovery) Act, 2016, alleging that the petitioner was found consuming gas illegally through an underground line connected directly to the main feeder. The alleged illegal connection was detected during a site inspection and was subsequently reported by the concerned officials. The petitioner, having been impleaded as a defendant in the said suit, filed an application for

leave to defend as well as an application under Order VII, Rule 11, C.P.C., seeking rejection of the plaint. The learned trial Court, however, vide order dated 17.06.2026, dismissed the application under Order VII, Rule 11, C.P.C. Feeling aggrieved by the said order, the petitioner has challenged the same through the instant petition.

3. Learned counsel for the petitioner, at the outset, argued regarding the maintainability of the instant petition that, in view of Section 13(6) of the Gas (Theft Control and Recovery) Act, 2016, no appeal, review or revision lies against an interlocutory order which does not dispose of the entire case. He, therefore, contended that, there being no other efficacious remedy available to the petitioner, the instant petition has rightly been invoked. Learned counsel further contended that, prior to institution of the present suit, the SSGC had instituted an earlier suit against the petitioner, which was subsequently withdrawn without obtaining permission to institute a fresh suit; therefore, according to him, the subsequent suit was not maintainable and was barred by the principles of *res judicata*. He further submitted that the amount sought to be recovered pertained to the year 2013 and, thus, the claim was *ex facie* barred by limitation. Learned counsel also questioned the virus of the notification issued by the Government whereby jurisdiction under the Act was conferred upon the concerned Courts. He, therefore, prayed that the instant petition be allowed, the impugned order passed by the learned trial Court be set aside, and the suit be dismissed.

4. Conversely, learned Deputy Attorney General submitted that, in view of Section 20 of the Gas (Theft Control and Recovery) Act, 2016, the learned trial Court is competent to entertain and adjudicate upon the suit for recovery. As regards the objection relating to limitation, he contended that such question involves a mixed question of law and fact and, therefore, requires framing of an appropriate issue and adjudication after recording of evidence, rather than its determination at the stage of an application under

Order VII, Rule 11, C.P.C. He further submitted that the earlier suit had been withdrawn on the ground that the jurisdiction of the Court had been questioned. In this regard, he drew the attention of the Court to the order dated 26.09.2023 passed by the learned trial Court in the earlier suit, whereby, according to him, permission to institute a fresh suit had already been granted. He, therefore, contended that the objections raised by the petitioner, are misconceived and devoid of merit. He accordingly prayed for dismissal of the instant petition.

5. On the other hand, learned counsel appearing for the SSGC relied upon the notification dated 17.11.2025 issued by the Ministry of Law and Justice, Government of Pakistan, whereby District Judges were notified to exercise jurisdiction under the Gas (Theft Control and Recovery) Act, 2016. He submitted that, in view of the said notification, the objection regarding want of jurisdiction no longer survives. He further contended that the petitioner was found consuming gas illegally, thereby causing loss to the national exchequer, and that the provisions of the special enactment were enacted to curb such unlawful consumption and theft of gas. Learned counsel submitted that the objection regarding limitation also requires proper adjudication in accordance with law and cannot, in the circumstances, furnish a ground for rejection of the plaint at the threshold. He further maintained that the issue of jurisdiction had already been resolved through the notification issued in November 2025 and, therefore, the objections raised by the petitioner were without legal substance. He accordingly submitted that no case for interference with the impugned order had been made out and prayed for dismissal of the instant petition.

6. Heard learned counsel for the parties and perused the material available on record.

7. First of all, it would be appropriate to examine the mechanism provided under the **Gas (Theft Control and Recovery) Act, 2016, (Act-2016)** for recovery of the amounts due to a Gas Utility

Company. In this regard, **Section 20** of the Act, 2016 assumes significance and is, therefore, reproduced hereunder:

20. Penalties not to affect other liabilities. – *The penalties imposed under sections 14 to 19 shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation which the offender may have incurred and no time bar shall apply in respect to either granting compensation or ordering recovery of arrears of dues of any kind or in respect to initiating proceedings in this regard.*

8. The procedure for dealing with complaints and suits arising out of defaults before the Gas Utility Courts is also prescribed under **Section 6** of Act, 2016. For the sake of convenience and proper appreciation of the controversy, the relevant provision is reproduced hereunder:

6. Procedure for complaints and suits for default before Gas Utility Courts. – (1) *Where a person is involved in an offence under this Act or where there are sums due or recoverable from any person, or where a consumer has a dispute regarding billing or metering against a Gas Utility Company, a consumer or Gas Utility Company, as the case may be, may file a complaint or suit, as the case may be, before a Gas Utility Court as prescribed by the Code of Civil Procedure, 1908 (Act V of 1908) or the Code of Criminal Procedure, 1898 (Act V of 1898).*

9. Now, if the notification dated 17.11.2025 issued by the Ministry of Law and Justice, Government of Pakistan, is examined in the light of the provisions of the Act, 2016, it becomes clear that, through the said notification, the learned District Judges were conferred exclusive jurisdiction to entertain and adjudicate upon suits and complaints arising under the Gas (Theft Control and Recovery) Act, 2016. Insofar as the grounds urged by the petitioner are concerned, the same relate to matters which are either specifically governed by the provisions of the Act, 2016 or require determination upon the basis of the pleadings and evidence to be produced by the parties. At this preliminary stage, the plaint cannot be rejected under Order VII, Rule 11, C.P.C., unless any of the grounds contemplated by the said provision is clearly and conclusively established from the contents of the plaint itself. The

petitioner has failed to demonstrate any such patent legal defect warranting rejection of the plaint at the threshold. Moreover, rejection of the plaint at this stage, without affording the SSGC an opportunity to establish its claim in accordance with law, would cause prejudice to its interest, particularly when the disputed questions raised by the petitioner require proper adjudication by the competent Court.

10. The objection regarding limitation, as raised by the petitioner, also cannot, in the circumstances of the present case, be determined merely on the basis of an application under Order VII, Rule 11, C.P.C. More particularly, Section 20 of the Gas (Theft Control and Recovery) Act, 2016, which provides for recovery of sums due or recoverable from a consumer in respect of billing or metering by a Gas Utility Company, does not prescribe any specific period of limitation for institution of such proceedings. In the absence of any express period of limitation prescribed under the said provision, the question as to whether the claim of the SSGC is otherwise barred by limitation requires examination in the light of the relevant facts, the nature of the claim and the applicable provisions of law. Such a question, particularly where it involves factual determination, may appropriately be considered by the learned trial Court in accordance with law after affording the parties an opportunity to lead evidence, rather than rejecting the plaint at the threshold under Order VII, Rule 11, C.P.C.

11. For the foregoing reasons and discussion, the learned trial Court has rightly declined the application under Order VII, Rule 11, C.P.C, and the impugned order, therefore, calls for no interference. Consequently, the instant petition, being devoid of merit, is hereby dismissed. These are the detailed reasons for the decision announced earlier.

JUDGE