

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
SUIT No. 1312 / 2019

DATE

ORDER WITH SIGNATURE OF JUDGE

- 1) For hearing of CMA No. 10874/2019.
- 2) For hearing of CMA No. 12034/2019.

24.09.2019.

Mr. S. M. Jahangeer Akthar Advocate for Plaintiff.
Mr. Haider Naqi Advocate for SSGC.
Mr. Imran Ansari Manager SSGC.

This Suit has been filed by the Plaintiff seeking the following prayers:-

- a) To declare that Defendants deliberately issued the monthly bills of Gas to the Plaintiff incorrectly from the month of July, 2019 without applying the tariff notified in OGRA SRO No. (I)/2019 dated 29.06.2019 and charging the Plaintiff tariff other than tariff notified for the textile.
- b) To declare that Plaintiff is doing his business of textile printing at the premises bearing Plot No. DP-6 A Sector 12-D, North Karachi Industrial Area, Karachi since January, 2013 under the name and style of M/s Evolution Textile and continuously paying monthly gas bills issued under Consumer No. 8959811000 and entitled to be facilitated under OGRA SRO No. (I)/2019 dated 29.06.2019.
- c) to restrain and refrain the Defendants jointly and severally their operators, officers, official staff and person(s) acting for or on their behalf not to disconnect the Sui Gas connection of the premises till final disposal of the above suit and to issue monthly bill to the Plaintiff as per actual consumption after applying the tariff notified in the OGRA SRO No. (I)/2019 dated 29.06.2019 without any delay in the interest of justice and place copy of corrected bill before this Hon'ble Court.
- d) Cost of the Suit.
- e) Any other relief which the Hon'ble Court may deem fit and proper under the circumstances of the case."

The precise case of the Plaintiff is to the effect that Sui Southern Gas Company Limited ("**SSGC**") has refused to grant tariff reduction as per OGRA SRO No. (I)/2019 dated 29.06.2019, whereby, the textile industry is to be charged tariff at the rate of Rs. 786/- per MMBTU as against the normal tariff rate of Rs.1021/- per MMBTU. Notice was ordered and thereafter, on 17.09.2019 the following order was passed:-

"1) Mr. Faisal Qazi, Advocate holds brief for Mr. Haider Naqvi, Advocate for Defendant, and requests for adjournment as he is not available. At his request, adjourned to a date in office.

2) This Suit has been filed by the Plaintiff against SSGC for charging tariff at the rate of Rs.1021/- per MMBTU instead of Rs.786/- per MMBTU. It is the case of the Plaintiff that they are entitled and fall under Clause-VI of the new SRO dated 29.06.2019 through which the new tariff rates have been notified for gas consumers. Learned Counsel has referred to letter dated 12.07.2019 addressed to the Plaintiff by SSGC for fulfillment of certain requirements, so that, rates tariff of Rs.786/- per MMBTU could be applied to their case. Learned Counsel submits that despite fulfillment of such conditions they were issued the last bill at the rate of Rs.1021/- MMBTU instead of reduced rate and due to paucity of time the Plaintiff has paid such bill under protest. Per learned Counsel despite issuance of notice in this matter, no response has been filed and now a fresh bill for the month of August, 2019 has been issued once again at the enhanced rate of Rs.1021/- per MMBTU. Learned Counsel submits that listed application has been filed for an ad-interim relief in respect of this bill, which is due on 19.09.2019.

In the circumstances, it would be appropriate that some ad-interim orders are passed, so that, the Plaintiff is not prejudiced by the extra charges mentioned in the bill. Therefore, application is allowed to the extent of gas bill for August, 2019 by directing the Petitioner to deposit differential amount of Rs.1021/- per MMBTU and Rs.786/- per MMBTU with Nazir of this Court within 07 days from today and the balance amount of the gas bill with SSGCL directly. The Nazir shall issue an appropriate certificate after deposit of the differential amount, which shall then be presented to SSGC by the Plaintiff and on such presentation SSGC shall issue a corrected bill by providing three (03) days' time to deposit such bill. Application stands disposed of."

Subsequently, on 20.09.2019 a Contempt application was filed on behalf of the Plaintiff on the ground that despite compliance of order dated 17.09.2019 and deposit of requisite amount with the Nazir of this Court and issuance of Certificate by him to that effect; SSGC has refused to issue a correct bill. Notice was ordered on this Contempt application and today Mr. Haider Naqi is in attendance along with alleged Contemnor. Mr. Haider Naqi submits that the bill in question as annexed with the plaint is not in the name of the Plaintiff and therefore, the order has been obtained without proper assistance and Plaintiff cannot get the benefit of the reduced rate. While confronted, Counsel for the Plaintiff submits that it is not in dispute that the bills are being issued in the name of Shan Textile with whom the Plaintiff is already under some litigation; however, he submits that Plaintiff is otherwise entitled for the benefit of reduced rates as per the Notification in

question, and therefore, Plaintiffs claim is maintainable. He has also argued that the Bills in question are being paid by the Plaintiff.

I have heard both the learned Counsel and perused the record. After transpiring of this fact that the impugned Bill issued is not in the name of the Plaintiff, learned Counsel was confronted on the entire maintainability of this Suit, as apparently, in that situation there is no cause of action against the Defendants; however, he has not opted to withdraw the Suit and has prayed for passing of appropriate orders.

It appears that admittedly the bills annexed with this Suit are in the name of one Shan Textile and not in the name of the Plaintiff. It further appears that when approached by the Plaintiff, SSGC has requested M/s Shan Textile to fulfill the requisite conditions for having the reduced rates applied on their Bill, and not to the Plaintiff as they are not the customers and or consumers of SSGC. Though in Para 7 of the plaint, the Plaintiff has mentioned the fact that there is some dispute with the previous owner (Shan Textile perhaps, as apparently the Suit is against some other individual) in respect of purchase and ownership of the property on which the factory is being run and for which the gas bill is being issued; however, while obtaining the order dated 17.9.2019, this was not brought to the notice of the Court. Moreover, if further appears that the Plaintiff has also filed various other Suits against SSGC in respect of gas load and other issues, but has not been able to get any orders in respect of an independent gas connection or change of consumer number of the bill for that matter. It may also be noted that the benefit of reduced rates as per tariff notifications, if any, can only be availed by an industry who is being issued a bill by SSGC for Gas consumption. There may be a case that Plaintiff is otherwise entitled; however, since the bill is not in the name of the Plaintiff, no order could

be obtained and or passed by this Court, for grant of such a concessions who is not having any Gas connection from SSGC. In fact this is a case where no cause of action has accrued to the Plaintiff insofar as the Gas Bill and applicability of reduced rates is concerned. Not only this the Plaintiff has even managed to file a contempt application and has obtained an order for the personal attendance of the alleged contemnor, which as a result thereof has definitely caused inconvenience and hardship to him leaving behind his assignment in the office of public dealings.

In view of such position, it appears that instant Suit has been filed without any cause of action, whereas, the Plaintiff is not even a consumer of SSGC, and cannot be issued any bill at full amount or even a reduced rate; hence it is hereby dismissed along with all pending applications by imposing cost of Rs. 10,000/- on the Plaintiff which shall be paid to the alleged contemnor, who upon receiving the same shall confirm it to the Nazir of this Court through statement. Nazir shall also be entitled to a fee of Rs.10,000/- which shall also be paid / deposited by the Plaintiff. For the sake of clarity it may be noted that order(s) passed if any, stands recalled, whereas, amount deposited before the Nazir of this Court shall be refunded to the Plaintiff upon proper verification and identification only after deposit of the two amounts as above.

Suit stands dismissed as being not maintainable along with pending applications.

J U D G E

ARSHAD/