

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

C.P No. D-288 of 2020

**BEFORE**

Mr. Justice Muhammad Junaid Ghaffar  
Mr. Justice Adnan-ul-Karim Memon

Petitioner : M/S Sui Southern Gas Company Limited  
SSGCL through Aslam P. Sipio,  
Advocate.

Respondent No.2 : Mr. Allah Bachayo Soomro, Addl. A.G  
Sindh.

Date of hearing : 01.06.2023  
& Order.

**ORDER**

**Muhammad Junaid Ghaffar, J:-** Through this petition, the Petitioner Company has impugned order dated 06.02.2020, whereby the application filed under Order 7 Rule 11 Civil Procedure Code for rejection of the complaint / plaint has been dismissed by the Consumer Protection Court, District Dadu in Claim Application No.28 of 2019 filed by Respondent No.1. Nobody has affected appearance on behalf of private respondent. On the other hand, petitioner's counsel submits that consumer Court has no jurisdiction in the matter in respect of any alleged excessive billing and in support thereof he has relied upon the order dated 21.05.2019 passed by the Honourable Supreme Court in Civil Petition No.1370 of 2019 (*Re: M/S Sui Southern Gas Company Limited, Karachi v. Hafiz Muhammad Babar & others*) and so also the case reported as *Suit Southern Gas Company Limited through Authorized Officer / Attorney v. Messrs Data CNG Filling Station Larkana (2021 MLD 568)*.

2. We have heard the petitioner's counsel and perused the record. It appears from perusal of the record and the prayer in the complaint made by respondent No.1 that the primary dispute is regarding some excessive billing as alleged by the consumer / respondent No.1. The question of jurisdiction as to the dispute between a Gas Supply Company and a consumer has already been settled and decided recently by the Honourable Supreme Court in the cases of ***Oil & Gas Regulatory Authority & others v. Suit Southern Gas Company Limited & others*** vide judgment dated 31.01.2023 in Civil Petitions No.797 of 2021 & others. The issue in that case

was though regarding exercise of jurisdiction by OGRA in respect of excessive billing and other disputes of the consumers with the Gas Utility Companies; however, the same also applies in the instant matter inasmuch as it has been held that such matters fall within the exclusive jurisdiction of a Gas Utility Court under Section 5(5) and (6) of the Gas (Theft Control & Recovery) Act, 2016. It further appears that for such purposes by way of notification, the Gas Utility Courts have been established by conferring powers on the concerned District & Sessions Judges; hence, the matter does not fall within the ambit and jurisdiction of the Consumer Court. The relevant finding reads as under

5. The 2016 Act, on the other hand, is a special statute which as per its preamble to provide for prosecution of cases of gas theft and other offences relating to gas and to provide a procedure for recovery of amounts due. Section 3 of the 2016 Act constitutes the Gas Utility Courts and Section 4 confers exclusive jurisdiction upon the Gas Utility Court with respect to all matters that are covered by the 2016 Act including tampering with gas pipelines, its distribution, gas metering or damaging or destroying the transmission or transportation lines, or maliciously wasting gas or injuring works. Section 6 of the 2016 Act provides for procedure for complaints and suits for default before the Gas Utility Courts and provides that *where a person is involved in an offence under this Act ... or where a consumer has a dispute regarding billing or metering against a Gas Utility Company, a consumer or Gas Utility Company ... may file a complaint ... before a Gas Utility Court* and this provision of the 2016 Act then goes on to lay down the procedure for such complaint or suit. Importantly, Section 31 of the 2016 Act provides that the Act shall have an overriding effect notwithstanding anything contained in any other law.

Similar view has been taken in the case *Re: M/S Sui Southern Gas Company Limited, Karachi v. Hafiz Muhammad Babar & others* cited by the Petitioners Counsel.

3. As to the finding of the learned Judge in the impugned order that since the provisions of CPC are not applicable to the Consumer Court specifically, and only limited powers are to be exercised in terms of Section 31 of the Consumer Court Act, 2014, with respect, we would like to observe that such finding is not only erroneous; but so also is based on misconception. Even if it is correct that the provision of law in question i.e. Order 7 Rule 11 CPC will not apply; even then, this by itself will not confer jurisdiction on the said Court to necessarily try the case. It has to be seen that whether the law under which the Court has been established can try the case, when a special law bars such jurisdiction. Therefore, the learned Judge was not justified in holding so and instead ought to have determined the question of jurisdiction independently with respect to the two conflicting laws conferring jurisdiction to the Courts. It appears that the learned Judge has not at all touched upon

any of the provisions of the 2016 Act, and therefore, the impugned judgment cannot be sustained in any manner.

4. Therefore, in view of such position and since the law already stands settled by the Honourable Supreme Court, this petition is **allowed** by setting aside the impugned order dated 06.02.2020 passed by the Consumer Court as it lacks jurisdiction, and as a consequence thereof, the said Court cannot proceed any further on the complaint in question. However, Respondent No.1, if at all aggrieved, any further, may seek appropriate remedy under the 2016 Act.

**JUDGE**

**JUDGE**

***\*Hafiz Fahad\****