

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

C. P. No. D 301 of 2021

SSGCL Versus Federation of Pakistan & others

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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Before

***Mr. Justice Muhammad Saleem Jessar***

***Mr. Justice Nisar Ahmed Bhanbhro***

Petitioner: Sui Southern Gas Company Limited  
Mr. Abid Hussain Qadri, advocate  
along with Arsalan Haryah,  
Deputy Manager, Legal, SSGC, Larkana.

Respondents No 1 & 2: Mr. Riaz Hussain Khoso,  
Deputy Attorney General for Pakistan.

Respondent No 3 Nemo

Date of hearing 09.09.2025

Date of order 09.09.2025

**ORDER**

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**Nisar Ahmed Bhanbhro, J.** This petition calls in question the validity and legality of the order dated 11.02.2021 passed the Court of learned District Judge, Kamber-Shahdada Kot / Gas Utility Court (**Trial Court**) in Suit No.06/2019 titled *SSGCL through its Attorney v. Parkash Lal* whereby the suit filed by the Petitioner SSGCL was dismissed for default under non prosecution and order dated 27.04.2021 wherein the application seeking reversal of the order dated 11.02.2021 and restoration of suit was dismissed. (the order dated 11.02.2021 and 27.04.2021 shall hereinafter be referred as to the ***impugned orders***)

2. The perusal of record revealed that the Petitioner SSGCL instituted a suit under Sub-Section (1) of Section 6 of ***the Gas Theft Control & Recovery Act, 2016*** (the Act) for the recovery of a sum of Rs.29,51,030 (Rupees Twenty-Nine Lac, Fifty-One Thousand and Thirty) from the Respondent Parkash Lal.

3. The Suit was admitted by Learned Trial Court and Counsel for the Petitioner SSGCL was required to place on record the notification issued by the Government of Pakistan conferring jurisdiction to Gas Utility Courts to entertain and decide the suit for recovery. The Counsel for the Petitioner SSGCL failed to produce such notification, therefore the suit was dismissed for non-prosecution vide order dated 11.02.2021.

4. Petitioner SSGCL filed an application under order IX Rule 9 C.P.C to set aside the dismissal order and to restore the suit to its original position. The Petitioner was granted sufficient time to bring on record the notification during restoration proceedings but he failed. Therefore, the application for restoration was dismissed too. It would be conducive to reproduce the order passed by the learned trial court for the ease of reference:

*“Plaintiff through its attorney had filed suit for recovery of dues arrears amount of Rs.29,51,030/- (Twenty-Nine Lacs Fifty-One Thousand Thirty Rupees Only) against defendant before this court on 12.09.2019 and same was put for Advocate to be heard on point of jurisdiction and suit of plaintiff was admitted on 03.10.2019. Plaintiff was directed to produce notification of Federal Government regarding hearing of civil cases related to SSGC by this Court. Since then matter was being adjourned for time to time for want of said notification of Federal Government, but plaintiff failed to produce said notification and on 11.02.2021 plaintiff so also his learned counsel called absent without intimation and said notification was also not produced, hence suit of plaintiff was dismissed for non-prosecution by this Court vide order dated 11.02.2021. Thereafter, plaintiff has preferred this instant application for restoration of suit, which was filed on 03.03.2021, which application was put on 22.03.2021 for Advocate to be heard. On 22.03.2021 plaintiff's Representative Mr. Zahid Hussain Gopang along with learned counsel appeared and did not produce said notification of Federal Government and sought adjournment, hence matter was adjourned to 07.04.2021. On 07.04.2021, representative of plaintiff and learned counsel appeared but again did not produce required notification and sought adjournment, thus on their request matter was adjourned for today i.e. 27.04.2021. Today, learned counsel as well Mr. Zahid Hussain Gopang are present but have failed to produce said notification and are again requesting for adjournment, which shows that they only linger on the matter but do not take interest to pursue the matter and are not providing notification of Federal Government regarding hearing of Civil Cases of SSGC by this Court.”*

5. Heard Learned Counsel for the Petitioner. He argued that the Gas Utility Court was established to try the cases of gas theft and suits for recovery of dues. He contended that Learned Trial Court was competent to try the suit. The impugned orders were illegal, thus liable to be set aside. He prayed to restore the suit to its original position for decision on merits. Learned Deputy Attorney General for Pakistan supported the stance of Petitioner.

6. The Gas (Theft Control & Recovery) Act, 2016 (the Act) was a special law and it had the overriding effect. Section 3 of the Act provides for establishment of Gas Utility Courts; Section 3 reads as under:

**3. Constitution of Gas Utility Courts.** (1) *The Federal Government may, in consultation with Chief Court concerned, and by notification in the official Gazette, establish as many Gas Utility Courts in a district as it may deem necessary for the purposes of this Act and appoint a Judge for each of such Courts from amongst the District and Sessions Judges in that district.*

*Explanation.----For the purpose of this sub-section District and Sessions Judge includes Additional District and Sessions Judge.*

(2) *Where more Gas Utility Courts than one have been established to exercise jurisdiction in the same territorial limits the Federal Government shall define the territorial limits of each such Court.*

(3) *Where more Gas Utility Courts than one have been established in the same or different territorial limits, the High Court may if it considers it expedient to do so in the interests of justice or for the convenience of parties or of the witnesses, transfer any case from one Gas Utility Court to another.*

7. Perusal of the above provision of law made it clear that that under Section 3 the Federal Government has to constitute a Gas Utility Court by issuing a notification in the official gazette in consultation with the Chief Justice concerned and the court so notified will exercise jurisdiction as envisaged under section 3 of the Act. The Jurisdiction of the Gas Utility Court once constituted under the Act is clarified in Section 4, which reads as under:

**4. Exclusive Jurisdiction of Gas Utility Courts.** (1) *A Gas Utility Court shall have exclusive jurisdiction with respect to all matters covered by this Act.*

(2) *The Court having jurisdiction under this Act shall be a Gas Utility Court having jurisdiction in the place in which the Gas Utility Company, consumer, gas producer or offender, as the case may be, is situated.*

8. The record transpired that a notification dated 02 May 2017 was issued by the Federal Government, notifying the constitution of the Gas Utility Court under Section 3 of the Act, which reads as under:

**"NOTIFICATION**

Islamabad, the 2nd May, 2017 S.R.O. 293(I)/2017.----In pursuance of section (3) of the Gas (Theft Control and Recovery) Act, 2016 (XI of 2016), the Federal Government, in consultation with the Chief Justice of the High Court under the said Act to exercise the powers for trial of offences under the said Act in their respective districts, namely:

S.No.	District and Sessions Judges
1.	District and Sessions Judge, Karachi (South).
2.	District and Sessions Judge, Karachi (Central).
3.	District and Sessions Judge, Karachi (East).
4.	District and Sessions Judge, Karachi (West).
5.	.....
23.	District and Sessions Judge, Kamber at Shahdadkot.
24.	District and Sessions Judge, Shikarpur.
25.	District and Sessions Judge, Tando Allah Yar.
26	District and Sessions Judge, Tharparkar. “

9. Section 6 of the Act confers both civil and criminal jurisdiction on the Gas Utility Court; which reads as under:

**6. Procedure for complaints and suits for default before Gas Utility Court-**  
---(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 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, (Act, V of 1908) or the Code of Criminal Procedure, 1898 (Act V of 1898).”*

10. It appears that confusion as to the jurisdiction of Gas Utility Court was created by the notification dated 2nd May 2017, wherein the use of the expression “exercise the power for the trial of offences” as contained in the notification created some ambiguity as to whether the notification only constituted the Gas Utility Court for the purpose of exercising its criminal jurisdiction or as to whether it also conferred the power on the Gas Utility Court to exercise its civil jurisdiction under Section 6 of the Act. The matter was considered by this Court in the case of **M/S National Tiles Ceramics Limited Versus Sui Southern**

**Gas Company Limited and in the case of Sui Southern Gas Company Limited vs. Messrs Data CNG Filling Station Larkana** wherein it was held that as the notification has been issued under Section 3 of the Gas Theft Control & Recovery Act, 2016 and the Gas Utility Court has been constituted thereunder, notwithstanding the use of the expression “exercise the power for the trial of offences” the Gas Utility Court on its constitution will exercise both its Civil and Criminal Jurisdiction as conferred on it by Section 4 read with Section 6 of the Gas Theft Control & Recovery Act, 2016.

11. We have carefully examined the impugned orders; Learned Trial Court dismissed the Recovery Suit in default for want of jurisdiction. If Learned Trial Court was of the view that it lacked jurisdiction to try civil suits under the Act for want of conferment of jurisdiction than instead of dismissing the suit for default, the plaint ought to have been returned by exercising its powers under order VII Rule 10 C.P.C for its presentation before the Court having jurisdiction. Suit cannot be dismissed under default for non-prosecution if the issue in essence pertained to the jurisdiction of the Court.

12. Petitioner has filed instant constitution petition against the impugned orders passed by passed by the Gas Utility Court in its original civil jurisdiction which were appealable before this Court. Since the matter pertained to the jurisdiction of Gas Utility Court and findings on merits were not tendered by the Learned Trial, therefore such lapse on the part of Petitioner is condoned.

13. We have examined the impugned orders minutely and are of the considered view that the Learned Trial Court passed the impugned orders due to an ambiguity in the notification issued by Federal Government whereby Gas Utility Courts were established. The ambiguity so prevailed, by now stands resolved that the notification dated 02.05.2017 conferred jurisdiction to Gas Utility Courts on both Civil and Criminal sides, to try the offences of Gas Theft and adjudicate the suits for recovery.

14. For the aforementioned reasons, we are of the considered view that the impugned orders were passed under misconception that the Gas Utility Courts established in the province of Sindh shall exercise powers as criminal courts, therefore, a case for indulgence of this Court under its supervisory jurisdiction conferred under article 199 of the Constitution of Islamic Republic of Pakistan of 1973 is made out. Consequently, the petition is allowed. The impugned orders dated 11.02.2021 and 27.04.2021 are set aside. The Suit No.06/2019 titled SSGCL through its Attorney v. Parkash Lal shall be deemed to be pending before Learned Trial Court and shall be decided on merits in accordance with the provisions of The Gas (Theft Control and Recovery) Act 2016, after giving a fair chance of hearing to both the sides.

The petition stands disposed of in above terms. Office to send copy of the order to Learned Trial Court.

JUDGE

JUDGE

**Oazi Tahir PA/\***

***Approved for reporting***

***Larkana***

***Dated: 09.09.2025***