

ORDER SHEET

IN THE HIGH COURT OF SINDH HYDERABAD CIRCUIT.

1st Appeal No. 38 of 2024.

DATE	ORDERS WITH SIGNATURE OF JUDGE
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1. For hearing of CMA 2832/2024.
2. For hearing of main case.

18.03.2025.

Mr. Altaf Sachal Awan, Advocate for the Appellant.
Mr. Aamir Ali Memon Advocate for the Respondent.

Through this 1st Appeal, the Appellant has challenged the judgment and decree dated 27.07.2024, passed by learned District Judge Shaheed Benazirabad, in Suit No.19/2024 (Re: M/s Sui Southern Gas Company Limited Versus Muhammad Aslam Arain).

I have heard learned Counsel for the Appellant as well as learned Counsel for the respondent as well as perused the record.

Learned Counsel for Appellant has argued that the Appellant due to family dispute was unable to file leave to defend Application during stipulated period as prescribed by the law and requested that the impugned judgment was passed ex parte without hearing him and since such matter requires evidence and case be decided on merits. However, learned Counsel for Respondent vehemently opposes this first appeal on the ground that clear violation of provision of law was made. A time period prescribed for filing leave to defend Application was not done so. He also states that no intimation of the Counsel was received either with regard to his personal presence and non filing of leave to defend Application within time, therefore, there is irresponsible act on the part of the Appellant for which there is no remedy available in the law.

After hearing both counsels, I am of the view that though section 17(2) of Gas (Theft & Recovery) Act, 2016 prescribes time to file leave to defend Application and no doubt Counsel for Appellant has failed to do so, yet such matters of gas theft cannot be decided in isolation and requires evidence by the law. I, therefore, allow the appeal by setting aside the impugned judgment & decree dated 27.07.2024 and remand this matter back to the learned trial Court with directions to appellant to file leave to defend Application within a period of seven days after fixation of the case and lead evidence. Since the sufficient time has been lost, I also direct the trial Court to conclude this matter within a period of thirty days.

Sd/-MIRAN MUHAMMAD SHAH,
JUDGE.