

IN THE HIGH COURT OF SINDH AT KARACHI
(APPELLATE JURISDICTION)

Miscellaneous Appeal No.6 of 2026

(National Tiles & Ceramics Ltd v. Sui Southern Gas Company Limited)

Before:

Sana Akram Minhas J

Appellant:	National Tiles & Ceramics Ltd Through, Mr. Moulvi Iqbal Haider, Advocate
Respondent:	Sui Southern Gas Company Limited Through, Mr. Mukesh Kumar G. Karara, Advocate
<u>Date of Hearing:</u>	9-4-2026
<u>Date of Decision:</u>	15-4-2026

ORDER

1. **Sana Akram Minhas J:** The present Order addresses solely the question of maintainability of this Miscellaneous Appeal.
2. Upon objection raised by the learned Counsel for Respondent (“**SSGC**”) – Decree Holder in Summary Suit and execution proceedings below – on 1.4.2026, this Court specifically questioned the maintainability of the present Appeal filed under Section 13 of the *Gas (Theft Control and Recovery) Act, 2016* (“**Gas Act 2016**”). The Appellant (“**National Tiles**”) – Judgment Debtor in Summary Suit and execution proceedings below – was called to explain how an appeal challenging the learned Gas Utility Court, Karachi’s reference/letter dated 15.12.2025, signed on 16.12.2025, (“**Impugned Reference**”), addressed to the learned Registrar of the High Court of Sindh, was maintainable under the said Section 13(1), which stipulates as follows:

***13. Appeal.** (1) Any person aggrieved by any judgment, decree, sentence or final order passed by a Gas Utility Court may, within thirty days of such judgment, decree, sentence or final order, prefer an appeal to the High Court.*

Impugned Reference

3. The Impugned Reference, submitted by the learned Gas Utility Court acting as the Executing Court in execution proceedings – arising out of Summary Suit No.16/2020 (*Sui Southern Gas Company Limited v. National Tiles & Ceramics Ltd*) (“**Summary Suit**”) – requests the learned Registrar of the High Court to direct the Nazir of the High Court to auction the immovable property situated in Naiclass No.89, Deh Kanto, Tapo Landhi, Taluka Bin Qasim Town, Karachi, measuring 1-30 acres (“**Attached Plot**”). As per the Nazir’s endorsement dated 21.2.2022, the original title documents of the Attached Plot were deposited by National Tiles (through Agha Tajjamul Hussain), pursuant to High Court’s directions dated 19.1.2022, issued in National Tile’s dismissed Miscellaneous Appeal No.54/2022 (*National Tiles & Ceramics Ltd. v. Sui Southern Gas Company Limited*) (“**Dismissed Appeal 54**”).

Pertinent Facts

4. The facts are as follows:
- i) On 7.2.2020, SSGC instituted the Summary Suit against National Tiles before the Gas Utility Court for recovery of Rs.80,122,000/- (Rs.80.122 million) on account of outstanding dues.
 - ii) By order and decree dated 29.5.2021, the Gas Utility Court dismissed National Tiles’ application for Leave to Defend and decreed the Summary Suit in favour of SSGC.
 - iii) On 9.8.2021, National Tiles filed the aforesaid Dismissed Appeal 54 before the High Court, challenging Gas Utility Court’s order and decree dated 29.5.2021.
 - iv) During the proceedings in Dismissed Appeal 54, the High Court directed SSGC to restore gas supply to National Tiles, conditional upon National Tiles providing surety in an amount exceeding the disputed sum, either by way of a bank guarantee or by depositing original title documents of an immovable property located in Karachi. For clarity, the order is reproduced below:

19-1-2022

Mr. Nabi Bux Laghari Advocate, holding brief for learned counsel for the respondent, requests for adjournment on the ground that the latter is busy before the Hon'ble Supreme Court. Learned counsel for the appellant states that the gas supply of the appellant is lying

disconnected since 16.09.2019 due to which not only the appellant-company is suffering, but all its employees and workers are also suffering. He further submits that without prejudice to the grounds urged in this appeal the appellant is ready to furnish surety equivalent to the disputed amount provided its gas supply is restored. The request made on behalf of the appellant appears to be reasonable, therefore, as an interim measure, the respondent is directed to restore the gas supply of the appellant subject to the furnishing of a surety by the appellant which must be more than the disputed amount in the shape of either a bank guarantee or original title documents of any immovable property situated in Karachi to the satisfaction of the Nazir of this Court. To be listed after four (04) weeks.

JUDGE

- v) On 21.2.2022, National Tiles (through Agha Hussain Tajjamul) deposited original title documents of the Attached Plot and executed a surety bond.
- vi) However, despite the deposit of the original title documents, National Tiles contended that its gas supply had not been restored. Consequently, by order dated 14.9.2022, the High Court directed SSGC to restore National Tile's gas supply within fifteen (15) days, subject to payment of current bills. National Tiles, in turn, undertook to pay all bills on time failing which SSGC would be entitled to disconnect the gas supply. The relevant extract of the order is as follows:

14-9-2022

... .. The acceptance of the surety by the Nazir means that the same was to his satisfaction. In the above circumstances, prima facie, it appears that the appellant has complied with the aforesaid order, whereas by not restoring the gas supply of the appellant, the respondent has not complied with the said order. Without prejudice to the objections filed by the respondent-company and its defense in the present appeal, its learned counsel undertakes that the gas supply of the appellant shall be restored within fifteen (15) days, subject to payment of the current gas bills by the appellant. On behalf of the appellant-company, their learned counsel undertakes that the gas bills shall be paid within time by the appellant. It is clarified that in case of default by the appellant in payment of any of the current bills in future, the respondent will be at liberty to disconnect the gas supply of the appellant.

To be listed after four (04) weeks.

JUDGE

- vii) On 11.10.2022, National Tiles filed a contempt application (CMA No.6052/2022) in Dismissed Appeal 54, alleging that SSGC had committed contempt of court by violating the High Court's order dated 14.9.2022 in failing to restore the gas supply.

- viii) Ultimately, on 25.8.2023, Misc. Appeal 54 was dismissed along with pending applications including the aforesaid contempt application filed by National Tiles.

Respective Arguments

5. Learned Counsel for National Tiles submits that:
- i) The Impugned Reference constitutes a “*final order*” and is, therefore, appealable under Section 13(1) of the Gas Act 2016, as it seeks directions to the Registrar of the High Court to instruct the Nazir of the High Court – who holds the original title documents of the Attached Plot pursuant to the High Court’s order dated 19.1.2022 issued in Dismissed Appeal 54 – to auction the Attached Plot for realization of the decretal amount along with markup, in satisfaction of the Gas Utility Court’s decree.
 - ii) The Attached Plot cannot be auctioned without prior restoration of National Tiles’ gas supply, as mandated by the High Court’s order dated 14.9.2022 passed in Dismissed Appeal 54, and that any such auction would be in violation of the said order.
6. On the other hand, learned Counsel for SSGC contended that:
- i) The present Appeal is merely a delaying tactic to obstruct the auction of the Attached Plot for satisfaction of a decree passed way back on 29.5.2021.
 - ii) The property sought to be auctioned is not different but the same Attached Plot, the original title documents of which were voluntarily deposited by National Tiles.
 - iii) Insofar as National Tiles claims to be aggrieved by the Impugned Reference on the ground that it violates the High Court’s order(s) passed in the Dismissed Appeal 54, the appropriate remedy lies in seeking recourse in those proceedings.
 - iv) Alternatively, if National Tiles is aggrieved by the attachment of the subject property, it ought to challenge/object to the same before the Executing Court rather than instituting the present Appeal.

Decision

Enforcement Of Order Dated 14.9.2022 In Dismissed Misc. Appeal 54 (Restoration of Gas Supply)

7. The contents of the present Appeal, as well as the submissions advanced by Counsel for National Tiles, essentially centre on the alleged unfairness in seeking auction of the Attached Plot without prior restoration of gas supply, which, according to National Tiles, had been directed by the High Court in Dismissed Appeal 54 by order dated 14.9.2022.
8. It is observed that such grievance pertains not to the legality of the Impugned Reference *per se*, but to the alleged non-enforcement or violation of directions purportedly issued in the Dismissed Appeal 54. Once the said Misc. Appeal 54 stands dismissed, any complaint regarding implementation, interpretation, or alleged breach of interim or ancillary directions passed therein cannot be agitated collaterally through the present proceedings.
9. If National Tiles is, indeed, aggrieved by the non-enforcement of any order passed in its Dismissed Appeal 54, the proper course would be to seek appropriate relief in the same proceedings, in accordance with law, rather than to invoke appellate jurisdiction against the Impugned Reference. The present Appeal, therefore, constitutes a misdirected attempt to reopen or indirectly agitate issues arising from concluded proceedings, which have attained finality in the absence of any appeal against the order dismissing Misc. Appeal 54, and is thus not legally tenable.

Alleged Contempt Of Order Dated 14.9.2022 In Dismissed Misc. Appeal 54 (Restoration of Gas Supply)

10. As regards the alleged violation of the High Court's order dated 14.9.2022, directing restoration of gas supply, the record of the Dismissed Appeal 54 reflects that, on 11.10.2022, National Tiles filed a contempt application (CMA No.6052/2022), asserting that SSGC had committed contempt of court by failing to comply with the High Court's order dated 14.9.2022 and not restoring the gas supply. By order dated 30.11.2022, the High Court, however, observed that owing to non-payment of current dues of approximately Rs.40 million by National Tiles, SSGC "*is not liable to restore the gas supply, hence, apparently, this is not disobedience*". Notably, no notice was issued on the said contempt application. For accurate reference, the relevant order is reproduced below:

30-11-2022

*Learned counsel for the appellant is reluctant to proceed with the case and he is emphasizing over the order whereby directions were given to restore gas supply subject to payment of current bill as well as surety was submitted. **This aspect was considered on last hearing and counsel for Respondent claimed that current bill is around Rs.4,00,00,000/- and appellant has failed to deposit that amount, therefore, Respondent is not liable to restore the gas supply, hence, apparently, this is not disobedience and thus R&Ps were called.** Accordingly, learned counsel for the appellant shall proceed the case on next date of hearing. [Emphasis added]*

Adjourned to a date in office. This matter shall not be listed further before this bench.

JUDGE

11. The aforesaid order dated 30.11.2022, read in conjunction with the fact that no notice was issued on the contempt application and no further proceedings were undertaken thereon, demonstrates that the High Court did not find a prima facie case of contempt and, in effect, declined to entertain the application.
12. It bears mention that the filing of the contempt application and the passing of the order dated 30.11.2022 have neither been disclosed in the memo of the present Appeal nor specifically brought to the attention of this Court by Counsel for National Tiles at the time of hearing. Mere annexation of voluminous documents with the Appeal does not discharge the duty of candid disclosure, particularly when material facts bearing directly on the controversy are neither pleaded nor properly highlighted for the Court's consideration. The strategy adopted of placing documents on record without specifically drawing attention to their material contents appears designed to shield a party from subsequent allegations of suppression of material facts, while effectively obscuring matters that ought to be squarely and transparently presented before the Court.

Executing Court's Attachment Order Dated 15.12.2025 Not Impugned – Raised Only During Arguments

13. While the Executing Court's order dated 15.12.2025 directing attachment of the subject Plot has not been specifically impugned in the present Appeal, the same was raised for the first time during the course of arguments, seemingly in hindsight, when Counsel for National Tiles was unable to advance satisfactory submissions in support of the challenge to the Impugned Reference premised on alleged non-compliance with the High Court's order dated 14.9.2022 for restoration of gas supply (passed in Dismissed Appeal 54).

14. Be that as it may, in the interest of justice and completeness, this Court has nonetheless proceeded to consider the said last-minute objection to the attachment order on its merits, notwithstanding that it was neither specifically raised in the pleadings nor formed part of the present Appeal.
15. The short reply to this new contention is that the attachment order of the Executing Court ought to have been challenged before the Executing Court itself in accordance with law, rather than being sought to be assailed indirectly through the present Appeal. To do so otherwise would amount to a collateral challenge to an independent executable order, thereby circumventing the prescribed statutory remedy and undermining the proper procedural hierarchy governing execution proceedings.

Questionable Conduct Of National Tiles – Issuance Of NOC For Sale While Title Documents Remain In Custody Of High Court Nazir

16. The Impugned Reference (in paragraph 5) records that after the order of attachment of the subject Plot was passed and the matter was referred to the Deputy Commissioner, Malir, the Mukhtiarkar reported that an NOC for sale had already been issued in favour of M/s Pakistan National Mills Limited, Karachi, through its CEO, Agha Tajjammul Hussain (acting through his General Power of Attorney holder, Fahad son of Muhammad Qasim). It is further recorded that the original title documents remain with the Nazir of the High Court and that the decretal amount has yet to be satisfied.
17. The Impugned Reference, therefore, reveals a questionable course of conduct on the part of National Tiles' representative (viz. said Agha Tajjammul Hussain). On the one hand, acting on behalf of the Judgment Debtor (Appellant herein), i.e. National Tiles, he deposited the original title documents of the very same Attached Plot with the Nazir of the High Court pursuant to Court directions issued in the Dismissed Appeal 54, thereby acknowledging the Court's custody and control over the Attached Plot as security for satisfaction of the decretal amount. On the other hand, notwithstanding such deposit and encumbrance before the High Court through deposited title documents, an NOC for sale of the same Attached Plot had been issued in favour of M/s Pakistan National Mills Limited, Karachi, through the same individual acting in a representative capacity.
18. When confronted, Counsel for National Tiles feebly contended that the said NOC had been issued prior to the order of attachment dated 15.12.2025. However, when further questioned regarding the date of the NOC and the production of its copy for verification, Counsel was unable to provide either.

19. Such a malafide and irreconcilable conduct – whereby the Attached Plot is simultaneously subjected to court-supervised security by deposit of original title documents with the Nazir of High Court, while also being proceeded with for private sale arrangements – strikes at the very root of transparency in execution proceedings and give rise to serious doubts regarding the bonafides of the transaction and the conduct of National Tiles and/or its representative.

Conclusion

20. In view of the foregoing discussion, this Court finds no merit in this Appeal. The Appeal appears to be nothing more than a dilatory tactic aimed at protracting the execution proceedings and obstructing the enforcement of lawful orders. Such conduct cannot be countenanced. The needless invocation of this Court's jurisdiction has also resulted in a waste of valuable judicial time, which could have been more productively devoted to genuine disputes warranting adjudication. Accordingly, the present Appeal is **dismissed with costs** of Rs.50,000/- (Rupees Fifty Thousand). The costs must be deposited within twenty (20) days from today into the account of the High Court Clinic, and the receipt shall be submitted to the Office.

JUDGE