

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Civil Revision No. 114/2020
M/s Pak Gas Company.
Versus
Pakistan Public Works Department

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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15.09.2020	Malik Naseem Abbas Nasir, Advocate for petitioner.
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Arguments on the point of maintainability of the instant civil revision petition have been heard.

2. Learned counsel contends that the instant Civil Revision Petition is protected under *Section 19 of the Code of Civil Procedure (Amendment) Ordinance, 2019 (Ordinance No.XXII of 2019)* whereby all the proceedings instituted prior to enactment shall be deemed to proceed and dealt in accordance with the provision of Code of Civil Procedure which existed prior to amendment of the Code of Civil Procedure.

The above contention of the learned counsel is misconceived as Explanation to Section 19 ibid provides that the terms ***“proceedings includes suit, appeal, review, revision, execution application or any other proceedings and any matter identical thereto”***.

3. As manifest from the above explanation, exception is available to all proceedings that includes revision petition and it is nowhere mentioned that any proceedings arising out of the suit, filed

prior to promulgation of the Ordinance, 2019 would be protected.

4. Record reveals that suit for recovery of Rs. 5,11,961/- filed by respondent was decreed vide judgment and decree dated 12.03.2019. Against the said judgment and decree, petitioner filed an appeal, which was dismissed vide judgment and decree dated 10.01.2020, being assailed through the instant civil revision petition, filed on 06.04.2020.

6. The Code of Civil Procedure (Amendment) Ordinance, 2019 (Ordinance No.XXII of 2019) was promulgated on 1st November 2019 which was superseded by the Code of Civil Procedure (Amendment) Act, 2020 promulgated on 22.02.2020. The substitution of Section 115 in both the enactments i.e. Ordinance, 2019 and Act, 2020, referred to above is contained in Section 15, which reads as under:-

“115. Revision.---Any party aggrieved by an order under section 104, passed by the Court of District Judge or Additional District Judge in an appeal against an interlocutory order passed by a Civil Judge or Senior Civil Judge, as the case may be, may within thirty days of the said order may file a revision to the High Court on an obvious misapprehension of law or in respect of a defect in jurisdiction.”

The provision *ibid* clearly stipulates that any party aggrieved by an order under section 104 CPC passed by the Court of District Judge or Additional District Judge in an appeal against an interlocutory order

passed by a Civil Judge or Senior Civil Judge as the case may be, may file a revision within thirty days of said order to the High Court while under the erstwhile provision of section 115 CPC, any case which has been decided by any court subordinate to High Court and in which no appeal lies thereto, could be assailed through a revision petition.

5. The instant civil revision petition was filed on 06.04.2020 much after the promulgation of Civil Procedure Code (Amendment) Act 2020. Thus, at the time of filing of the instant Civil Revision petition, the remedy was not available with the petitioner in terms of erstwhile Section 115 CPC. Consequently, the instant civil revision petition is not maintainable and accordingly **dismissed**. However, the petitioner would be at liberty to avail remedy available to him under the law, if so advised.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

*A.R. Ansari