

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

Crl. Appeal No. 98/2013

Sui Northern Gas Pipelines Limited

Vs.

Salman Zafar.

APPELLANT BY: Ch. Hafeez Ullah Yaqub and Ms.
Zaitoon Hafeez, Advocates

RESPONDENT BY: Raja Zeeshan Afzal proxy counsel,
Advocate

DATE OF DECISION: 20.05.2019

MOHSIN AKHTAR KAYANI J. Through this Criminal Appeal, the appellant has assailed the order dated 13.06.2013, passed by learned Additional District & Sessions Judge-V (West), Islamabad, whereby a direction was issued to the appellant to restore the gas supply to the complainant subject to deposit of Rs. 02 lac with the Nazir of the Court within a week.

2. Brief facts referred in the instant appeal are that the complainant/respondent is running a business under the name and style of Bake Well at Shop No. 5, Plot 7-E, Abrar Plaza, F-10 Markaz, Islamabad and his gas supply was disconnected on 12.04.2013 without any prior notice and bill amounting to Rs. 1,956,190.21/- was issued to the complainant/respondent, same has been challenged through the consumer complaint before the learned Additional District & Sessions Judge-V (West), Islamabad. Learned Court without hearing the arguments of the appellant, issued the direction for restoration of gas supply and even without considering the jurisdiction of the Court, passed the impugned order, hence this appeal.

3. Learned counsel for the appellant contends that the respondent has already filed the complaint before OGRA against the bill of Rs. 1,956,190.21/- as the alternate remedy has already been availed and Consumer Court has no jurisdiction under Islamabad Consumer Protection Act, 1995. It has further been argued that the learned Consumer Court has to adjudicate upon the question of jurisdiction at the first instance, which has not been adhered to. However, learned counsel for the appellant/SNGPL under the instructions of the Department contends that if the complainant/respondent is ready to deposit the due charges of the gas supply, the gas connection will be restored.

4. Conversely, learned proxy counsel appearing on behalf of complainant/respondent seeks adjournment, whereas instant matter falls within the category of old cases, which is pending since 2013 and 22 dates of hearing have been conducted in this case, but the counsel for complainant/respondent seeks adjournment on one reasons or the other, therefore, direction was issued to the learned counsel for the parties on 02.04.2019 to argue their case, failing which matter shall be decided as per available record.

5. While complying with the order dated 02.04.2019, this Court has left no other option that request of the proxy counsel for the complainant/respondent be turned down and matter be decided on the basis of available record.

6. Perusal of record reflects that the complainant/respondent is running a business under the name and style of Bake Well at Shop No. 5, Plot 7-E, Abrar Plaza, F-10 Markaz, Islamabad and his gas supply has been disconnected and later on gas bill amounting to Rs. 1,956,190.21/- was issued by the SNGPL and the complainant/respondent has challenged the same before learned Consumer Court under Islamabad Consumer Protection Act, 1995. However, at the same time, complainant/respondent has also

challenged the said gas bill before OGRA under OGRA Ordinance, 2002 and the said fact has been confirmed in para-7 of the complaint. Counsel for appellant has recorded a specific statement that if the complainant/respondent is ready to deposit the due charges of the gas supply, the gas connection will be restored.

7. Besides the above referred statement made by the learned counsel for the SNGPL, this Court has gone through the Islamabad Consumer Protection Act, 1995 alongwith OGRA Ordinance, 2002 as well as The Gas (Theft Control and Recovery) Act, 2016.

8. While comparing all these three laws, the question relating to excessive billing of gas supply does not fall within the purview of Islamabad Consumer Protection Act, 1995 and the ratio in this regard has been settled in judgment reported as **2012 CLD 1428 [Lahore] (Messrs Sui Northern Gas Pipeline Limited through General Manager and 2 others Vs. Abdul Hameed), PLD 2015 Lahore 31 (Sui Northern Gas Pipelines Ltd. through General Manager Vs. Ch. Muhammad Zahid), PLD 2018 Islamabad 51 (SNGPL through General Manager Vs. Director Legal, President Secretariat (Public), Aiwan-i-Sadar and two others.**

9. I have also gone through the impugned order dated 13.06.2013, and have come to the conclusion that the same has been passed without hearing the arguments of the appellant, even the question of jurisdiction has not yet been settled. At this stage, without touching the merits of the case, instant criminal appeal is **Allowed** and the impugned order dated 13.06.2013 is hereby **set-aside** and matter is remanded to the learned Consumer Court seized with the matter to decide the complaint in accordance with law while considering the judgments of the Superior Courts as to whether the Consumer Court can decide the question of disputed bill in terms of Islamabad Consumer Protection Act, 1995 or otherwise. However, complainant/respondent is given a choice on the statement of the

appellant's side that complainant/respondent may deposit due charges amounting to Rs. 1,956,190.21/- with the SNGPL, whereafter SNGPL Authorities shall restore the gas connection within thirty (30) days.

10. It is expected from the learned Consumer Court to decide the consumer complaint in accordance with law on or before 31.07.2019 under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE /

Ramzan