

## **JUDGMENT SHEET**

### **IN THE ISLAMABAD HIGH COURT,** **ISLAMABAD**

**CIVIL REVISION NO.479 OF 2015**

**General Manger, etc**

**Vs.**

**Kushnood Ahmed**

**Petitioners by : Ch. Hafeez Ullah Yaqoob, Advocate.**  
**Ms. Zaitoon Hafeez, Advocate**

**Respondent by : Mr. Muhammad Safdar Janjua, Advocate.**

**Date of hearing : 21.07.2020.**

**LUBNA SALEEM PERVEZ, J.** Through present civil revision petition, the petitioners, designated officers of Sui Northern Gas Pipeline Limited (*hereinafter referred to as SNGPL*), has assailed the judgment of Additional District Judge-VIII, West-Islamabad, dated 13.10.2015.

2. Necessary facts are that the application u/o XXXIX Rule 1 & 2 CPC was filed by the present respondent alongwith the suit for permanent and mandatory injunction before Senior Civil Judge West-Islamabad. The said application for interim injunction was dismissed on 09.05.2015. The Additional District Judge-VIII, West-Islamabad, in appeal filed u/s 43 Rule 1 (r) CPC by the respondent, reversed the order of the Senior Civil Judge and allowed the interim injunction to the respondent.

3. The contention of the learned counsel for the petitioners are that since, the date of grant of interim injunction, vide impugned judgment dated 13.10.2015, the respondent has not paid the gas utility bills though they are continuously consuming the gas at the premises wherein the Meter No. GN27791553, Consumer No. 2147433004 containing Billing ID No. 214743133565 is installed; that the suit is still pending at the trial stage; that since, the respondent was running a private girls hostel in the premises where the above said meter is installed for domestic use, therefore, the petitioners issued bill under commercial tariff amounting to Rs.341,730/-; that the learned Additional District Judge while granting interim injunction has failed to appreciate the facts of the case

and has committed illegalities and irregularities by not considering the tariff status of the respondent which has caused loss of revenue to the petitioners; that the advantage of Notification dated 01.01.2013, has been unlawfully claimed by the respondent; that the matter relates to monetary affairs and an outstanding bill on account of utilizing gas is due on the respondent which in any case is to be paid by the respondent, therefore, there is no apprehension of irreparable loss to the respondent; that the impugned judgment is illegal, unlawful and against the facts of the case and, therefore, liable to be set-aside.

4. Conversely, learned counsel for respondent submitted that the respondent/plaintiff purchased the property bearing House No. 13, Street No. 62, Sector G-6/4, Islamabad, in June, 2010, and is running and managing the girls hostel as non-profit organization/no profit no loss basis; that the Notification dated 01.01.2013, issued by OGRA has exempted such type of non-profit organizations from the purview of commercial tariff; that, therefore, the charge of sui gas on commercial tariff is not sustainable; that learned Additional District Judge, after appreciating all the facts has allowed the interim injunction as the respondents have issued the gas bill for recovery of the deducted amount of Rs.341,730/- and were ready to disconnect the supply of gas in respect of above meter on non-payment; that the temporary injunction granted vide impugned judgment on the application u/o XXXIX Rule 1 & 2 CPC is a temporary relief which, even otherwise, would be settled on the conclusion of the trial of the suit as such no irreparable loss has been caused to the petitioner SNGPL; therefore, the present civil revision is not sustainable and liable to be dismissed.

5. Heard learned counsel for the parties and perused the record with their able assistance.

6. After hearing the arguments of the learned counsel for the parties and from the perusal of the record it transpired that controversy between the parties relates to determination of tariff of the gas in respect of House No. 13, Street No. 62, Sector G-6/4, Islamabad, where the domestic Meter No. GN27791553, Consumer No. 2147433004 and Bill ID No. 214743133565, is installed prior to the purchase of the premises by the respondent. Record revealed that the

respondent is running a private girls hostel in the premises where the sui gas, on the basis of domestic tariff, is being utilized, however, the contention of the respondent is that, in view of the OGRA Notification dated 01.01.2013, the non-profit organizations and hostels etc. have been excluded from the purview of commercial units, which controversy is still pending to be resolved at the trial stage in the suit filed by the respondent. The interim injunction application u/o XXXIX Rule 1 & 2 CPC was filed along with the suit on the pretext of apprehension of disconnection of the meter and supply of gas, the amount of Rs. 341,730/- has been determined to be recoverable from the respondent as arrears on the basis of commercial use of the sui gas in the premises. The application was dismissed by the Senior Civil Judge/Trial Court but in appeal the interim relief was granted to the respondent while observing as under:-

*"Hostel of charitable institutions find mentioned as such the case of the appellant falls within the ambit of the said notification. It is also necessary that a suit be filed by the person in whose name utility services are connected. Enough is to observe that who consuming energy supply through the said connection is. There is no denial of the fact that the sui gas supply to the premises through the subject connection is being utilized by the appellant against whom the impugned proceedings are being initiated by the respondents department. It is observed that injunction sought was against the disconnection of gas supplied to the appellant which action may cause a loss which safely be termed as irreparable."*

It has been observed from the perusal of the record that the suit for permanent injunction has been filed on 14.02.2014, and the issues have been framed on 10.06.2015, and it appears that the trial had not proceeded since then. The learned counsel for the petitioners argued that after obtaining interim injunction order, the respondent has stopped paying the sui gas bills though are utilizing the gas in the premises. From perusal of the orders it has also been transpired that the issues in the present case have already been framed and now the matter is pending for evidence and arguments since past five years.

7. Perusal of the above said paragraph from the impugned judgment clearly shows that the interim injunction has been granted only to the extent of disconnection of gas supply to the respondent's premises. So far as payment of outstanding bill is concerned, *prima-facie*, there is no specific restraining order in that regard mentioned in the impugned order. Even otherwise, payment of outstanding Gas Bill relates to the main controversy involved in the suit pending adjudication before the learned trial Court, therefore, it would not be appropriate for this court to give any finding on this issue as it may influence the case of either of the parties during trial proceedings, whereas, it would be appropriate if the learned trial Court is directed to conclude the trial expeditiously.

8. For the reasons discussed above, this Court refrain itself from interfering with the impugned judgment dated 13.10.2015, whereas, the learned trial Court is directed to decide the suit expeditiously within a period of 30 days from the date of receipt of this order, positively, after recording of evidence in the case, in accordance with law.

9. The present civil revision petition is disposed of in the manner directed above.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

***Announced in the Open Court on 29.07.2020.***

**JUDGE**