

**JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

W.P. No.60974 of 2021

Sui Northern Gas Pipelines Ltd.

Versus

M/s Aliz International (Pvt.) Limited & others

J U D G M E N T

Date of hearing:	11.10.2021.
Petitioner by:	Rana Zia-ul-Islam Manj, Advocate along with Asim Riaz, Senior Law Officer.
Respondents by:	M/s. Imran Raza Chadhar and Qasim Raza Chadhar, Advocates. Barrister Ameer Abbas Ali Khan, A.A.G. on Court's call.
Research by:	Mr. Muhammad Imran Sh. Addl. District Judge / Senior Research Officer, LHCRC Mr. Ahmad Zia Ch., Civil Judge / Research Officer, LHCRC.

MUHAMMAD SAJID MEHMOOD SETHI, J.: Through instant petition, petitioner-SNGPL has assailed order dated 06.09.2021, passed by learned Additional District Judge / Judge Gas Utility Court, Sheikhpura, whereby petitioner's application under Order XIII Rule 3 CPC regarding admissibility of the documents *Exh.P14 to Exh.P28* before delivery of final judgment, was rejected with the observation that evidentiary value of these documents would be checked at the time of delivery of final judgment.

2. Brief facts of the case are that petitioner-SNGPL filed a suit for recovery of Rs.20,256,981/- against respondents alleging therein that respondent No.1 secured an industrial gas connection for CNG station, however, it committed numerous violations i.e. tampering of gas meters and willful default in making payment of monthly gas

bills etc. and as per evaluation of the detection committee an amount of Rs.21,756,981/- is payable and after adjusting the security amount of Rs.1,500,000/-, the claimed amount of Rs.20,256,981/- is still due. The suit was contested by filing written statement. During evidence, petitioner-SNGPL produced documentary evidence and respondents questioned the admissibility of some documents i.e. Exh.P14 to Exh.P28. Learned Trial Court observed that this question would be decided at the time of final adjudication of the case. Later on, petitioner-SNGPL filed application under Order XIII Rule 3 CPC, requesting to decide aforesaid question prior to delivery of final judgment and said application was dismissed by learned Trial Court vide impugned order dated 06.09.2021. Hence, instant petition.

3. Learned counsel for petitioner-SNGPL submits that original documents were burnt and the produced documents bear official seal / stamp of responsible officer of SNGPL, hence, status as well as evidentiary value of these documents is that of original documents. He adds that material aspects of the matter have been overlooked while passing impugned order, which is unsustainable in the eye of law.

4. Conversely, learned counsel for respondents defends the impugned order.

5. Arguments heard. Available record perused.

6. Perusal of record shows that question of genuineness and admissibility of documents *Exh.P14 to Exh.P28* was raised by respondents during the course of evidence. The stance of petitioner-SNGPL was that its office caught fire and said documents were destroyed along with other record, however, Exh.P14 to Exh.P28 bear official seal / stamp of responsible officer of petitioner-SNGPL. The controversy to be resolved by this Court is whether question of admissibility of some document in evidence is required to be decided promptly when it is raised, or the Court may postpone it. The relevant provisions of the Code of Civil Procedure, 1908,

governing the proposition in hand i.e. Order XIII Rules 3, 4 & 6 are reproduced hereunder for ease of reference:-

“3. *Rejection of irrelevant or inadmissible documents.*--The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

4. *Endorsements on document admitted in evidence.*—(1) Subject to the provisions of the next following sub-rule, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely:-

- (a) the number and title of the suit,
- (b) the name of the person producing the document,
- (c) the date on which it was produced, and
- (d) a statement of its having been so admitted:

and the endorsement shall be signed or initialed by the Judge.

(2) Where a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following rule, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed or initialed by the Judge.

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6. *Endorsements on documents rejected as inadmissible in evidence.*--Where a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of rule 4, sub-rule(1), together with a statement of its having been rejected, and the endorsement shall be signed or initialed by the Judge.”

7. First of all, I intend to go through Indian case law to highlight principles developed by Indian superior Courts, with reference to the foregoing provisions of law. In the case of Javer Chan and others v. Pukhraj Surana [1961 AIR (SC) 1655], Supreme Court of India observed that question as to admissibility of a document on the ground of un-stamped or under-stamped has to be decided immediately when such document is tendered in evidence. In the case of Hemendra Rasiklal Ghia v. Subodh Mody [2008(6) ALL MR 352], the Bombay High Court was of the view that objection as to admissibility of a document should be decided instantaneously as and when raised without reserving it until final decision in the case. However, an exception has been provided that objection of

inadmissibility of a document requiring resolution of complex issues, having effect of arresting progress of the matter, or if the admissibility of evidence is dependent on receipt of further evidence, in such cases the Trial Court can defer decision of such objection. Even omission to object to a document, which in itself is inadmissible in evidence, would not constitute such document in evidence. In the case of Ram Rattan (dead) by legal representatives v. Bajrang Lal and others [1978 AIR (SC) 1393], the Supreme Court of India has observed as under:-

“6. When a document was tendered in evidence by the plaintiff while in witness box, objection having been raised by the defendants that the document was inadmissible in evidence as it was obligatory upon the learned trial Judge to apply his mind to the objection raised and to decide the objection in accordance with law. Tendency sometimes is to postpone the decision to avoid interruption in the process of recording evidence and, therefore, a very convenient device is resorted to, of marking the document in evidence subject to objection. This, however, would not mean that the objection as to admissibility on the ground that the instrument is not duly stamped is judicially decided; it is merely postponed. In such a situation at a later stage before the suit is finally disposed of it would none-the-less be obligatory upon the court to decide the objection.”

8. The legal position emerging from afore-referred case law is that a Trial Court is required to decide the objection of admissibility of a document as and when such objection is raised in the first instance instead of deferring it for future. However, only exception of postponing is that if admissibility of such document is dependent on receipt of further evidence. No such reasoning is manifesting from the impugned order and the finding of learned Trial Court that any opinion or observation about documents in question would affect and prejudice the case of any party, is unsustainable in the eye of law.

9. In view of the above, instant petition is allowed in the manner that impugned order dated 06.09.2021 is set aside. Consequently, learned Trial Court is directed to firstly decide the question of admissibility of the documents *Exh.P14 to Exh.P28*, in accordance with law as well as case law referred supra, through a

speaking order, within a period of thirty days from now onwards and thereafter decide the main suit strictly in accordance with law, through a speaking judgment within a period of sixty days, under intimation to this Court through Deputy Registrar (Judicial).

(Muhammad Sajid Mehmood Sethi)
Judge

APPROVED FOR REPORTING

Judge

Sultan