

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 11812 of 2023

Petitioner :- Surya Pratap Singh And 2 Others

Respondent :- Rajpati Dwivedi 9 Others

Counsel for Petitioner :- Anand Tiwari

Hon'ble Ashutosh Srivastava,J.

Heard Sri Anand Tewari, learned counsel for the petitioners.

Considering the nature of the order that is proposed to be passed, the notice upon the Respondent Nos.1 to 10 is dispensed with.

Learned counsel for the petitioners submits that the petitioners before this Court are responsible officers of IHB Ltd. Prayagraj, which is a Joint Venture Company (JVC) of Indian Oil Corporation (IOCL), Hindustan Petroleum Corporation Ltd. (HPCL) and Bharat Petroleum Corporation Ltd. (BPCL). The IHB Ltd. has been incorporated to implement Kndla-Gorakhpur LPG Pipeline Project, which is 2760 KM long, 8.25 MMPTA Capacity Liquefied Petroleum Gas (LPG) Pipeline, once constructed, is expected to be world's longest LPG Pipeline and able to meet about 25% of the India's total LPG demand.

A notification has been issued on 24.09.2020, in which the land contained in Gata No.820 area 0.3880 hectare, Gata No.821, area 0.3770 hectare, Gata No.822, area 0.9590 hectare and Gata No.834 area 0.2050, situated at Village Lawayan Kala, Uparhar, Pargana-Arail, Tehsil Karchhana, District Prayagraj, have been notified for installation of the aforesaid Gas Pipeline.

It is also contended that a final notification under Section 6(1) of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962, has been published on 16.02.2021. Award has been rendered in respect of the acquisition of the aforesaid gatas and the respondents herein are the beneficiaries of the Award. It is next contended that a civil suit being Suit No.4161 of 2022 was instituted before the Court of Additional Civil Judge (Jr. Division), Court No.12, Prayagraj, for permanent injunction stating incorrect facts and the petitioners herein are defendants in the said Suit.

Sri Anand Tewari, learned counsel for the petitioners submits that

the Suit is barred under Section 14 of the 1962 Act and also that instead of plaintiff, the Joint Venture Company, the respondents herein impleaded the officers of the Joint Venture Company, as party defendants. It is next contended that the Additional Civil Judge (Jr. Division) Court No.12, Prayagraj, at the very first day, granted the interim relief as prayed for vide order dated 08.12.2022. The petitioners, who have been arrayed as defendants in the said Suit, have filed their objections against the aforesaid order and have also prayed for setting aside the injunction order granted on the ground that the Suit itself is not maintainable.

He submits that the said objections are pending consideration and the purpose of filing the present petition would stand served, if appropriate directions are issued to the Additional Civil Judge (Jr. Division) Court No.12, Prayagraj to consider the objections of the petitioners and decide the interim injunction application (Paper No.6-C) filed by the plaintiff-respondents in the said Suit No.4161 of 2022, within time frame fixed by this Court.

Considering the submissions advanced and taking note of the fact that the plots/lands have already been notified for laying down the LPG Pipeline and Award in respect thereof has already been rendered and the plaintiff-respondents are the beneficiaries thereof, prima-facie, the injunction order granted by the learned Additional Civil Judge (Jr. Division) Court No.12, Prayagraj, in Civil Suit could not have been passed, however, in exercise of power under Section 227 of the Constitution of India, the said order cannot be set aside, particularly in the wake of an alternative remedy available to the petitioners by filing Misc. Appeal or seeking its recall. Since the petitioners have already exercised the option of filing the objections against the order dated 08.12.2022 and have sought its recall, this Court deems it appropriate to dispose of the writ by directing the Court concerned, to decide the interim injunction application (6-C).

Accordingly, the petition is ***disposed off*** requiring the Additional Civil (Jr. Division) Court No.12, Prayagraj, to consider the objections of the petitioners and decide the interim injunction application (Paper No.6-C), filed by the plaintiffs/respondents, in civil Suit No. 4161 of 2022 (Rajpati Dwivedi and others vs. Rohit Nandan and others), expeditiously, preferably within three weeks from the date of service of a certified copy of the order of this Court, strictly in accordance with law.

Order Date :- 22.11.2023

Pks/Deepak/