

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P. No.5345 of 2013

and

M.P.No.1 of 2013

T.Sekar

... Petitioner

-Vs-

1. District Collector,
Collector Office, Thiruvarur.

2. The Regional Director,
Indian Oil Corporation Ltd.,
No.139, Indian Oil Bhavan,
Nungambakkam High Road,
Chennai 600 034.

3. The Chairman,
Tamilnadu Pollution Control Board,
76, Mount Salai, Chennai 600 032.

4. The District Collector,
Collector Office, Tiruchirapalli.

5. The District Collector,
Collector Office, Nagapattinam.

6. Chief Project Manager,
Indian Oil Corporation Ltd., (Pipeline
Division), A-1, Udyog Marg,
Sector-I, Noida - UP - 201301.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to forbear the 2nd respondent from going ahead with the pipeline project from Narimanam to Trichy.

For Petitioner : Mr.A.Meenakshi Sundaram
For Respondents : Mr.S.T.S.Murthi,
Government Pleader, for RR 1, 4 & 5
: No appearance for R-2
: Not ready reg. RR 3 and 6

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner, claiming to be the President of a farmer association, seeks to assail the laying of the gas pipeline by the Indian Oil Corporation (IOC). The project is stated to be of a pipeline to be laid at 7 feet depth with 40 feet wide and length of about 200 km from Narimanam, Nagapattinam District to Trichy District passing through the delta districts, Nagapattinam, Thanjavur and Thiruvavur. It is the case of the petitioner that farmers are apprehensive that the project may affect their livelihood and their agricultural produce. The Indian Oil Corporation is alleged not to have conducted any public hearing to remove the apprehensions over the project.

2.The petitioner claims that in view of the constitutional protection under Article 300A, the action of the second respondent was without authority of law.

3.The safety issue is also sought to be raised since liquid petroleum is highly inflammable and that the pipeline may affect the ecological system and may disturb the lives of animals, birds, species, etc.

4.On our query, the petitioner conceded that the petitioner before us is a farmer and not an expert in laying of pipeline.

5.We have perused the counter-affidavit of the second respondent / Indian Oil Corporation, though no counsel is cared to assist us in the matter. It has been stated that the project was sanctioned by the Government of India traversing different villages. A notification was issued under Section 3 (1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (hereinafter referred to as 'the said Act'). Objections were invited within twenty days from the date of service of notice. Objections were submitted from time to time and ultimately, a declaration was issued under Section 6(1) of the said Act vesting the land with the Central Government free from all encumbrances. It is also pointed out that the lands notified are agricultural lands brought to cultivation and no

house site layout has been found nor there is approval for construction of any building.

6.An issue was raised about the guideline value of the villages, where lands were sought to be acquired. Those aspects were dealt with and even revised compensation have been paid for certain districts.

7.The technical aspect is stated to have been assessed by the Environment Impact Assessment and Risk Analysis (EIRA). As to the technical competence of what was being done, we reproduce the following extract from the counter-affidavit:-

"The underground pipeline is proposed to be laid, underground in trench of 1.00 m wide and 1.5 m deep and 18 m width, as per the international standards (American Petroleum Institute Standards). The pipeline operation is controlled through computerized control system incorporating all Safety measures including leak deduction system and automatic closure of valves through Supervisory Control and Data Acquisition system (SCADA). IOCL has been laying pipeline in India since 1964 and laid more than 11,000 kms of pipelines all over India and it is in operation. Some of these pipelines are crossing many major perennial rivers like Ganges, Yamuna, Brahmapudra etc. The pipeline is eco friendly and laid underground. The pipeline hydro test 95% SYMS. The pipeline is protective coated with Dual Fusion Bonded epoxy (DFBE) / three layer polyurethane epoxy (3LPE) to prevent corrosion and also cathodic protection system also provided. The required safety measure will be taken by IOCL for the proposed pipeline route. The Petroleum Pipeline course has been decided after considering various technical grounds and safety measures. Actually their lands will not be acquired as feared by them."

8.It has also been clarified that the Right of Way is notified for laying the petroleum pipeline and on completion of the work, the land will be handed over to the owners with the prohibition from constructing any building or any other structure or excavating a well or planting any tree within the notified area. The project is stated to be profitable for the country and the pipeline course was decided after considering various technical aspects and safety measures.

9.We may note at the inception that in so far as the individual rights for farmers are concerned, the same can be agitated only by the affected farmers whose land is sought to be

acquired. If the farmers are satisfied with the compensation, no third party like the petitioner can raise the issue on their behalf.

10.As far as the technical aspects and due care to be taken is concerned, naturally the Indian Oil Corporation is expected to do the needful. The petitioner is hardly qualified to state anything about those aspects, as he has no knowledge of the same.

11.Learned counsel for the petitioner states that the Indian Oil Corporation has not filed documents to substantiate its claim qua the affidavit. All we would like to say is that the petitioner has not filed the petition about acquisition of his land but seeks to raise the issue qua others land.

12.The last aspect urged by the learned counsel for the petitioner is that often these pipelines are left unattended subsequently and there should be methods of checking up so that accidents can be avoided. We do expect that the Indian Oil Corporation will take care of these aspects or for that matter, any technical aspects.

13.No ground is made out for issuance of any directions in this matter.

14.Writ petition is, accordingly, dismissed. No costs. Consequently, M.P.No.1 of 2013 is also dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sra

To

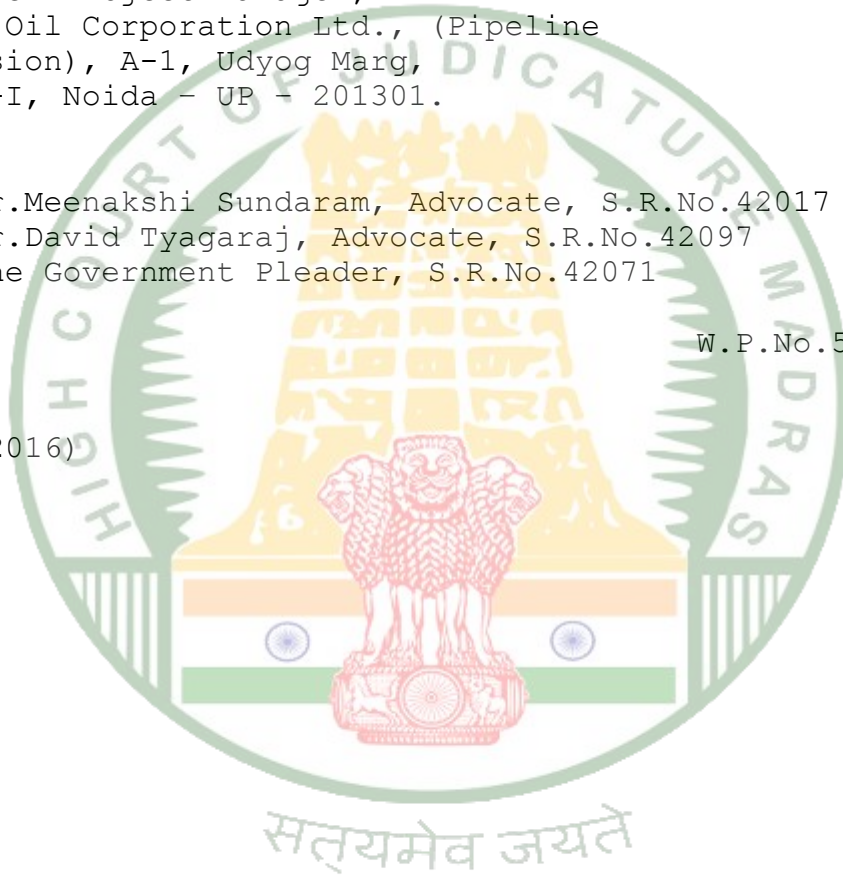
1. The District Collector,
Collector Office, Thiruvavur.
2. The Regional Director,
Indian Oil Corporation Ltd.,
No.139, Indian Oil Bhavan,
Nungambakkam High Road,
Chennai 600 034.

3. The Chairman,
Tamilnadu Pollution Control Board,
76, Mount Salai, Chennai 600 032.
4. The District Collector,
Collector Office, Tiruchirapalli.
5. The District Collector,
Collector Office, Nagapattinam.
6. The Chief Project Manager,
Indian Oil Corporation Ltd., (Pipeline
Division), A-1, Udyog Marg,
Sector-I, Noida - UP - 201301.

+1cc to Mr.Meenakshi Sundaram, Advocate, S.R.No.42017
+1cc to Mr.David Tyagaraj, Advocate, S.R.No.42097
+1cc to the Government Pleader, S.R.No.42071

W.P.No.5345 of 2013

VGI (CO)
CA(05/08/2016)



WEB COPY