

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.22876 and 22900 OF 2017

COMMON ORDER:

Both these writ petitions are being disposed of by this Common Order as they relate to the challenge made against the action of the 4th respondent-Hyderabad Pipeline Project, Indian Oil Corporation Limited, Vijayawada, in acquiring the petitioners' private agriculture lands, situated in Sy.Nos.40/1 and 71/2 of Siripuram Village, Yeleswaram Mandal, East Godavari District, without following due process either under the Land Acquisition Act, 1894 or under the Petroleum & Mineral Pipelines Act, 1962.

2) It is the case of the petitioners that the respondents have entered into their lands and also put certain peg marks by erecting concrete poles. There was no notice given to the petitioners and at the stage of admission this Court granted *status quo* to be maintained.

3) A counter affidavit is filed by the 4th respondent, who is the Competent Authority, as defined under section 2(a) of the Petroleum and Minerals Pipelines Acquisition of Right of Users in Land, 1962 (in short "the Act").

4) In the counter affidavit it was categorically stated that as per the Gazette Notification No.1181, dated 27.04.2017 issued by the Government of India, under Section 3 of the Act, to acquire the right-of-use of petitioners' subject lands and the same was published in all the Government Offices as per Section 4 of the Act, and, thereafter, they fixed the temporary field bunds only to identify the points for establishing the route, in that process they

have not damaged any crops or other property in the lands, thereby no compensation need to be paid at this stage. It is asserted in the counter that the right-of-use shall be done as per the provisions of the Act only and if at all any crop is damaged during laying of the pipeline, a suitable compensation will be paid as per the rates, decided by the Competent Authority, as per the provisions of the Act. It is further submitted that though they served the notices on the petitioners, they refused to take the notices, therefore, they sent notices to the petitioners through Registered Post with acknowledgment due on 22.07.2017. It is further asserted that it is only right of use of the land but not land acquisition and even after laying pipeline, the petitioners can use the whole land for the cultivation, subject to condition that no permanent structures be constructed in the identified land. It is further submitted that after disposal of the objections, received from the concerned land owners, the details of the land will be submitted to the Central Government for Gazettee Publication Under Section 6 of the Act, and after Gazette Publication panchanama will be conducted with respect to the said lands and then a competent authority will pass Award for compensation to land holders. It is further submitted that as per Section 10(5) of the Act 10% of the market value has to be paid to the land owners, however, the Indian Oil Corporation has decided to pay 20 to 25% of the market value as land compensation and if any permanent structures and trees are removed from the said lands the same will be compensated by the Company before execution of work. Hence, prayed for dismissal of the writ petitions.

5) Having considered the respective submissions and in the light of the stand taken by the respondents that they would follow the due procedure prescribed under the Act and Rules, these Writ Petitions are disposed of with a direction to strictly adhere to the commitment made in the counter and it is also made clear that before undertaking work, in the event of there being any structures or trees either fruit bearing or otherwise, petitioner shall be given notice to record the actual status of the growth of the trees or the structures that are proposed to be removed for undertaking the work. Of such giving notice and recording the actual state of affairs on the ground would allow the respondent Competent Authority to determine the just compensation payable to the land holders under Section 10 of the Act.

6) Consequently, Miscellaneous Petitions pending, if any, in these writ petitions, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

Date:02.08.2017.

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