

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13972 OF 2018

Shri.Chindu Bandu Kadam and anr. ... Petitioners.
V/s.

The Union of India through
Secretary and ors. ... Respondents.

Mr. Yogesh Pande I/b Mr. S.S. Koregave for the Petitioner.
Smt. Madhubala Kajale, B-Panel Counsel for the Respondent
Nos.2 to 5- State.
Mr. Javeed Hussein, Mr. Mubashir Hussein, Ms Reshma Khatri
I/b Hussein and Co. for Respondent No.6.

CORAM : R.M. BORDE AND V.L. ACHLIYA, JJ.
DATE : 15th JANUARY 2019.

P.C.:

- 1] Heard the respective Counsel appearing for the parties.
- 2] The Counsel appearing for the respondents are invited our attention to Section 10 of the Petroleum Pipelines (Acquisition of Right to User in Land) Act, 1962 (for short "Act of 1962"). The same reads thus:

"10. (1) Where in the exercise of the power conferred by section 4, section 7 or section 8 by person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent

authority in the first instance.

(2) If the amount of compensation determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated , be determined by that District Judge.

(3) The competent authority or the District Judge while determining the compensation under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage or loss sustained by any person interested in the land by reason of-

(i) the removal of trees of standing crops, if any, on the land while exercising the power under section 4, section 7 section 8;

(ii) the temporary severance of the land under which the pipeline has been laid from other lands belong, to or in the occupation of, such person; or

(iii) any injury to any other property, whether movable or immovable , or the earnings of such person caused in any other manner;

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the notification under sub-section (1) of section 3.

(4) Where the right of user of any land has vested in the Central Government, the State Government or the corporation , the Central Government the State Government or the corporation , as the case may be , shall in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation

calculated at a ten per cent. of the market value of that land on the date of the notification under sub-section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not accepted to either of the parties it shall, on application by either of the parties to the District Judge referred to in sub-section (2), be determined by that District Judge.

(6) The decision of the District Judge under sub-section (2) or sub-section (5) shall be final”.

3] The petitioners are the agriculturists, who are affected by the pipelines proposed to be laid in the agricultural lands belonging to them. There was a meeting arranged with the Sub-Divisional Officer between the officials of respondent No.10 and Project Affected Persons and certain understanding has been reached. However, it appears that there is no determination as regards the compensation receivable by the agriculturists in respect of land proposed to be used for the project by the respondents. In view of mandate of Section 10 of the Act of 1962, the Sub-Divisional officer shall have to determine the amount of compensation payable to the agriculturists. If the amount of compensation determined by the competent authority under sub-section (1) of Section 10 is not acceptable to either of the parties, the matter shall have to be referred to the District Court.

4] In the instant matter, since the amount of compensation have not yet been determined, a direction shall have to be issued to the Sub-Divisional officer to determine the amount of compensation receivable by each of the petitioners. The Sub-Divisional Officer shall after extending an opportunity of hearing to the petitioners as well as the respondent authorities shall determine the amount of compensation receivable by each of the petitioners. This exercise shall be completed as expeditiously as possible and preferably within three weeks from today. On determination of amount of compensation, respondent No.6 shall pay the amount to the agriculturists within a period of one week from such determination. In the event, either the petitioners or the Petroleum Company does not agree with the determination by the Sub-Divisional Officer as regards the amount of compensation, it would be open for either of the parties to avail of the remedy as provided under sub-section (2) of Section 10 of the Act of 1962. The petitioners undertake not to obstruct the development work of laying down pipeline by respondent No.6.

5] In view of above, Writ Petition is disposed of.

(V. L. ACHLIYA, J.)

(R.M.BORDE, J.)