

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on
10..01..2019

Orders Pronounced on
08..03..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.7108 of 2018
and
W.M.P.Nos.8804 & 36676 of 2018

K.Surendranath

... Petitioner

-Versus-

- 1.The Secretary to Government,
Ministry of Petroleum and Natural Gas,
Government of India,
New Delhi.
- 2.The Under Secretary to Government,
Ministry of Petroleum and Natural Gas,
Government of India,
New Delhi.
- 3.The Land Acquisition Officer-cum-Competent Authority,
Indian Oil Corporation Limited,
ATF, CBPL, CBRT & ET-LPG, Pipeline Projects,
Plot No.14, Jayaprakash Street,
V.C.P.Nagar, Rajajipuram,
Tiruvallur 602 001.
- 4.M/s.Indian Oil Corporation Limited,
No.139, Indian Oil Bhavan,
Nungambakkam High Road,
Nungambakkam, Chennai 600034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to Notification bearing No. S.O.1996(E) dated 15.06.2017 published in the Gazette of India, Extra-Ordinary (Part-II Sec 3(ii) dated 23.06.2017 on the file of the 2nd respondent culminating into the notices bearing No.ETBPNMT.PL.No.16/17-283 and No.ETBPNMT.PL No.16/17-53, both notices dated 05.07.2017 and notice dated 20.12.017 bearing No.ETBPNMT.PL.No.16/17-53 and order dated 19.10.2017 bearing No. ETBPNMT.O.P. 05/2017 (Thiruvallur) on the file of the 3rd

respondent and the consequential declaration dated 15.03.2018 bearing Notification No. S.No.1249(E) Published in the Gazette of India, Extra-Ordinary (Part-II Sec 3(ii) dated 20.03.2018) on the file of the 2nd respondent and quash the same.

[Prayer amended as per order dated 09.08.2018 in
W.M.P.No.22820 of 2018]

For Petitioner : Mr.G.Masilamani, SC
for M/s.G.M.Mani,
Associates

For Respondent(s) : Mr.G.Karthikeyan,
Assistant Solicitor
General of India for
R1 and R2
Mr.David Tyagaraj for
R3 & R4

ORDER

This writ petition has been filed challenging the notification dated 15.06.2017 issued by the 2nd respondent under Section 3(1) of The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 and the consequential notification dated 15.03.2018 issued under Section 6 of the above said Act for acquisition of right of user in the land of the petitioner for laying pipeline for Indian Oil Corporation Limited.

2. The case of the petitioner in brief is as follows: The petitioner is the absolute owner of the landed properties comprised in S.Nos.30/3B, 31/1A, 31/1C, 33/1, 34/1 and 35/1A, situated at Kottakuppam Village, Uthukkottai Taluk, Tiruvallur District by way of inheritance through his father and ancestors. The above said lands are agricultural lands and the petitioner and his family have been cultivating in the same for several decades. The above said lands are situated at Annadanakkakavakkam Village Road, which connects Periyapalayam State Highways [SH 51] and the lands are situated hardly 500 meters away from the State Highways. The lands have high potential for industrial, residential and commercial purposes as several industrial establishments have already come up and there are several DTCP approved layouts in the surroundings of the locality. Earlier, the 2nd respondent herein had issued a notification on 15.06.2017 under Section 3(1) of The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (in short "the PMP Act") which was published in the Government of India Gazette Extraordinary on 23.06.2017 whereby the 2nd respondent Ministry expressed its intention to acquire

the right of user in the lands owned by the petitioner herein for laying Natural Gas Pipeline (in short, "LNG pipeline") for Indian Oil Corporation Limited. Pursuant to the above said notification, the 3rd respondent had issued another notice dated 05.07.2017 and yet another notice 09.01.2018 directing the petitioner to submit his objections, if any, for acquiring the right of user in the land in question. Pursuant to the notice, the petitioner had sent a detailed objected on 04.08.2017, pointing out his objection for acquiring the right of user (hereinafter referred to as 'the ROU'). Thereafter, a personal enquiry was conducted on 11.10.2017 wherein the petitioner had appeared and submitted another detailed objection. Thereupon, the 3rd respondent, by his proceedings dated 19.10.2017 disposed of the petitioner's objections without considering the none of the objections raised by the petitioners, however, with an observation that the land belonging to the petitioner are not being acquired and only the ROU in the land alone is sought to be acquired for the purpose of laying Natural Gas Pipeline and the owner of the land is entitled to cultivate the land without any hindrance, as such, there would not be any loss of agricultural income from the lands and under Section 10(4) of the PMP Act, the petitioner would be suitably compensated on payment of 10% of the marker value of the land in which the right of user in the land is sought to be acquired. Since the objection of the petitioner was not properly considered, originally, challenging the aforesaid notification, the petitioner has come up with this writ petition. Pending writ petition as a declaration under Section 6 of the PMP Act came to be issued on 15.03.2018 and the same was also subsequently published in the Government of India Gazette on 20.03.2018, the petitioner had filed an application in W.M.P.No.22820 of 2018 seeking permission to amend the relief which was allowed by this court on 09.08.2018. The writ petition has been amended accordingly.

3. According to the petitioner there is a change of alignment of the pipeline from the originally planned route and the IOCL is now rerouting the pipeline through his lands for extraneous consideration so as to protect some of the land owners under whose lands the proposed pipeline was originally sought to be laid. That apart, there is vast extent of poramboke lands available in the same village which could be easily acquired and pipeline could be laid under those lands instead of acquiring private lands. It is the further case of the petitioner that he dug a deep bore well in his land and laid pipeline for agricultural purposes and he has been extensively carrying on agricultural operation thereon. The grievance of the petitioner is that, if the right of user in the lands in question is acquired for laying pipeline, entire agricultural operations would get seriously affected which would not only cause much loss to the petitioner, but, much hardship as well.

As the lands in which the right of user is sought to be acquired has got potential value and the petitioner has been carrying on agricultural activities therein, instead of acquiring the right of user in the petitioner's land, the respondents can very well reroute the pipeline without causing any hindrance to the private land owners. Hence, this writ petition.

4. The respondents 1 and 2 have filed their counter affidavits wherein they inter alia explained about the sanction of the project and also acquisition of right of user in the lands in question under the provisions of the PMP Act.

5. The 3rd respondent filed a detailed counter affidavit inter alia contending that the Government of India has intended to acquire the right of user in the land from Ennore Port to Tuticorin viz., Tiruvallur, Kancheepuram, Nagapattinam, Trichy, Sivagangai, Ramanathapuram District under ETBPNMTPL Project (Ennore, Tiruvallur, Bangalluru Pondicherry, Nagapattinam, Madurai and Tuticorin) underground pipeline Project for the transportation of natural gas by Indian Oil Corporation Limited and the right of user in the land for laying natural gas pipeline was taken under the provisions of the PMP Act. A Deputy Collector, on deputation from the State Government has been notified as competent authority for acquiring the lands under the Act. Thereafter, a preliminary notification under Section 3(1) of the PMP Act was issued for the proposed acquisition of right of user in lands situated in Kottakuppam Village in Uthukkottai Taluk, Tiruvallur District, including the lands of the petitioners in S.No.34/1, 35/1A & 33 was issued and objections were also called for from the land owners. The above notification was also duly published as contemplated under the PMP Act. Thereafter, the petitioner submitted his objection and an enquiry was conducted on 11.10.2017 under Section 5(2) of the Act. In the enquiry, the objections filed by the petitioner were duly considered and the same were over ruled. The entire project has been done only for the benefit of public at large and if the project is implemented, there would be reduction in pollution and in the cost of urea and fertilizers etcetera and the project would also ensure uninterrupted supply of fuel to remote areas. The change of alignment through poramboke land as claimed by the petitioner cannot be considered as the alignment of the pipeline of the project has been done by the Technical Experts from IOCL thereby pipeline route has been designed in the shortest way for the transportation of natural gas and there cannot be any possibility at this stage for re-alignment which would pave way for on inclusion of private land owners and the objections from the farmers. Now, the pipeline has been finalized after ascertaining the technical feasibility as contemplated under the PMP Act and it is not with any intention to favour any individual land owners. After following the procedure contemplated under the Act strictly, a final

declaration under Section 6 of the PMP Act was issued on 20.03.2018 and there is no procedure violation as submitted by the petitioner.

6. It is further stated by the 3rd respondent that the underground pipeline is proposed to be laid, underground in trench of 1.00 meter wide and 1.5 meter deep from normal ground level and more depth below at critical utility areas like road crossing, rail crossing and river crossing and in Right of Way of 18 meter width as per the international standards. The pipeline operation is controlled through centralized, 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 11000 kms of cross country underground pipelines all over India and they are in safe operation as of now. The pipeline is eco friendly and laid underground. The pipelines are tested by hydro test 125% of maximum allowable operating pressure against normal operating pressure of 30 to 40% of pressure before putting in to operation. The pipeline is protective coated with Dual Fusion Bonded Epoxy (DFBE) / three layer polyurethane epoxy (3LPF) to prevent corrosion and also cathodic protection system also provided. All the required safety measures will be taken by IOCL for the proposed pipeline in the entire route. The Natural Gas Pipeline course has been decided after considering various technical grounds and safety measures and provisions as contemplated under the PMP Act. Under the impugned notification only the Right of Way for ROU is notified for laying the natural gas pipeline. The laying of pipeline for the transport of petroleum products is of National Important project for the benefit of public at large sanctioned by the Government of India and Right of User in Land (ROU) will be acquired under the provisions of the PMP Act. The pipeline project has already been laid for 683 kms in Tamil Nadu (CPCL Chennai Refinery to Trichy-Madurai-Sankari) operated and maintained which are traversing through the various Districts for the past 12 years. The farmers / land owners on whose lands the underground pipeline traverse never raised any objection or complaint to the revenue and IOCL authorities and the farmers continue to cultivate their lands without any disturbance and have been yielding agricultural income.

7. Subsequently, the petitioner has filed an additional affidavit stating that already a LPG pipeline is available within Uthukkottai Taluk which runs straight through Kottakuppam and Annadanakkavakkam in Uthukkottai Taluk beyond S.No.17 of Kottakuppam Village in Uthukkottai Taluk and joins the existing pipeline at Poochi Athipattu village in Uthukkottai Taluk. From that point onwards, the proposed LPG pipeline is to be laid in the already existing right of users in the lands, which were

already acquired. According to the petitioner, from the sketch provided by the respondents, it could be seen that, the proposed Liquefied Natural Gas Pipeline (LNG Pipeline) can also be laid along side of the LPG pipeline in the same track of land up to S.No.17 situated in Kottakuppam Village in Uthukottai Taluk and thereafter, it takes a turn towards west and passes through in approximately 22 Acres and 35 Cents situated in seven villages before jointing the existing pipeline at Poochi Athipattu village. From that point onwards, the proposed LNG pipeline is to be laid along side with the already proposed LPG pipeline under the lands over which ROU has already been acquired. The proposed LPG pipeline runs straight beyond S.No.17 of Kottakuppam village and joins the existing pipeline at Poochi Athipattu village which runs approximately in 8 Acres and 97 cents situated in three villages. Whereas the proposed LNG pipeline takes a detour with several curves and bends and in a zig zag manner and takes longest route which would involve acquisition of right of user in approximately 22 Acres and 35 cents so as to reach the already acquired ROU in the land situated at Poochi Athipattu to be laid along side with the existing LPG pipeline. If the respondents want to lay the pipeline in a shortest way for transportation of LNG then, they can very well use ROU acquired for laying the LPG pipeline thereby they can avoid acquiring a vast extent of agricultural lands and also paying compensation. That apart, the interest of the agriculturists, whose lands are sought to be acquired, would be protected.

8. The 3rd respondent filed a rejoinder to the additional affidavit filed by the petitioner contending that the IOCL is not operating any LPG pipeline in Uthukottai Taluk as on date. Both LNG and LPG pipelines are sanctioned and proposed to be implemented to the benefit of public at large for transportation of natural gas and petroleum gas to various bottling plants for safe and economic transportation of the essential products. The proposed LNG pipeline emanates from Import LNG Terminal at Ennore Port to Tuticorin traverses through Tiruvallur, Bangaluru, Kancheepuram, Villupuram, Nagapattinam, Trichy, Sivagangai, Virudhunagar, Ramanathapuram and Tuticorin under ETBPNMTPL underground pipeline project. The route of LNG pipeline has been decided by Technical Experts engaged by the IOCL. The pipeline and the route has been decided without any bias and also without knowing the details of the land owners during marking of pipeline alignment in Topo sheet and actual field survey in various survey numbers. The route of pipeline has been designed by considering the tap of locations to the various consumption centers. The proposed LPG pipeline emanates from Indian Oil Petronas Pvt. Ltd, Ennore at Athipattu Village and proposed to supply LPG to various bottling plants situated at Chengalpattu, Trichy, Madurai and Puducherry in eco friendly and safe manner. The LPG pipeline alignment was technically

finalized considering the feeding of LPG to southern part of Tamil Nadu viz., Chengalpattu and Madurai. The LNG pipeline alignment was technically finalized considering the need for feeding R-NG from Ennore to Bengaluru and to Tuticorin. The originating point being the same with dual termination points necessitated a branch line of this RLNG trunk pipeline from tap-off at Thirukandalam village, Uthukottai Taluk to Bengaluru through the right of way already acquired under the PMP Act of the existing Chennai-Bengaluru Product Pipeline. The main trunk line from Thirukandalam village traverses through the lands notified under PMP Act to meet at Poochi Athipattu with the already acquired ROU for Chennai-Trichy-Madurai Product pipeline. Hence, both the pipeline alignments of R-LNG and LPG are essential and have been designed to meet the respective requirements accordingly. To lay a pipeline of 12 inches diameter, 60 feet width of the land is acquired and the area notified under the said Act is only by considering the maintenance of the pipelines in future if need arises and various technical and safety reasons. By considering the technical parameters and tap-off for various locations only the route has been designed and as such the route is the shortest route. The laying of pipeline cannot be avoided in the land situated beyond Survey No.17 situate at Kottakupam village.

9. The 4th respondent filed additional counter affidavit wherein he inter alia contended that the proposed right of way for the ETMPL LPG pipeline alignment is not acquired completely and no compensation amount has been made as on date due to change in LPG supply-demand scenario in the State of Tamil Nadu on account of upcoming new refinery at Nagapattinam. Since the RoW not acquired in totality and the project has been shelved, it necessitated de-notification of ROU notified in the stretches.

10. Mr.G.Masilamani, learned senior counsel appearing for the petitioner submitted that the impugned notifications have been issued without following the procedure contemplated under the Act and the various objections submitted by the petitioner were not properly considered by the 3rd respondent. Even the notification did not contain the correct survey numbers of the petitioner's land to enable him to raise his objection and the enquiry was also not properly conducted as contemplated under Section 5(2) of the PMP Act.

11. The learned senior counsel for the petitioner further submitted that the respondent had already acquired vast extent of land for laying LPG pipeline and an extent of 60 feet width of land has been acquired in the same Uthukkottai Taluk and the proposed LNG pipeline can also be taken along with LPG pipeline side by side, thereby the respondents can avoid acquiring vast

extent of agricultural lands including that of the petitioners and also avoid payment of compensation. Ultimately, both the LNG and LPG points are joining in the same places and taking both the pipelines together would also technically feasible.

12. The learned senior counsel further added that the respondents have decided pipeline in a circuitous way and as such it has been decided to acquire more than 22 Acres of land in that area and if pipeline is taken through the direct way which is more convenient and the respondents can avoid unnecessary acquisition of valuable agricultural lands.

13. The learned senior counsel for the petitioner had taken this court to a map containing the route of pipelines and made his submission elaborately regarding the right of user in lands which sought to be acquired for laying LNG and LPG pipelines and contended that LNG pipeline line could also be taken along with the proposed LPG pipeline, for which right of user in the land has already been acquired by the respondents.

14. On considering the above submissions, pending writ petition, this court had directed the petitioner to submit a fresh representation to the respondents for considering his suggestion regarding taking both LNG and LPG pipelines together under the existing ROU which has already been acquired for laying LPG pipeline and the respondents were also directed to consider the petitioner's submissions with assistance of the experts.

15. Pursuant to the above directions, the petitioner had made a representation before the 3rd respondent and the 3rd respondent, in turn, after having considered the submissions of the petitioner, filed an elaborate report stating that the suggestion made by the petitioner is not technically feasible. That apart, now, they are also proposed to drop the LPG project due to change in LPG supply and demand scenario. Mr.S.Thangaraj, Chief General Manager (Constructions), Indian Oil Corporation Limited, who was present in court, had extensively explained to this court about various technical aspects involved in laying the proposed LNG pipeline and submitted that the suggestions made by the petitioner are not technically feasible to implement the project.

16. I have considered the submissions of the learned senior counsel for the petitioner and the learned Asst. Solicitor General for the respondents 1 and 2 and the learned standing counsel for the respondents 3 and 4 and also perused the available materials carefully.

17. The acquisition proceedings has been initiated for acquisition of right of user in the land under the PMP Act for

laying underground pipeline to transport LNG from Ennore Port to Tuticorin through Ennore Port to Tuticorin viz., Tiruvallur, Kancheepuram, Villupuram, Nagapattinam, Trichy, Sivagangai, Virudhunagar, Ramanathapuram and Tuticorin under ETBPNMTPL Project . The purpose of the project is to supply liquefied natural gas to remote areas in various parts of Tamil Nadu. and Bangaluru. According to the IOCL, the total length of pipeline is about 1045 kms and the petitioner's land in which right of user is sought to be acquired in respect of 3 survey numbers is to a total extent of 0.43 Acres. Further, according to IOCL, only 96 meters length of pipeline is proposed to be laid in the notified lands belonging to the petitioner and the total length of pipeline proposed to be laid in the petitioner lands would be approximately 0.009% of the total length of the proposed pipeline.

18. The first and the foremost contention of the petitioner is that the respondents did not follow the procedures contemplated under the PMP Act, while acquiring the right of user in the petitioner's lands. Before considering the above contentions, it would be useful to refer to the relevant provisions in the PMP Act reads. Under Section 3 of the PMP Act, whenever it appears to the Central Government that it is necessary in the public interest for the transport of petroleum or any mineral from one locality to another locality pipelines may be laid by that Government or by any State Government or by a corporation and for the purpose of laying such pipelines it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user in any land and that the substance of the notification shall be published at such places and in such manner as may be prescribed in the PMP Act.

19. Section 3 of the PMP Act read as follows:-

3. Publication of notification for acquisition.-(1) Whenever it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum or any mineral from one locality to another locality pipelines may be laid by that Government or by any State Government or a corporation and that for the purpose of laying such pipelines it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein. (2) Every notification under subsection (1) shall give a brief description of the land. (3) The competent authority shall

cause the substance of the notification to be published at such places and in such manner as may be prescribed.

20. Under Section 5 of the PMP Act, any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1) of Section 3 of the Act submit his objection for laying of the pipeline to the competent authority in writing. On receipt of such objection, the competent authority shall consider the land owner's objection after giving an opportunity of being heard and thereupon, the competent authority shall pass an order either allowing or disallowing the objections. Section 5 of the PMP Act reads as follows:-

"5. Hearing of Objections.-(1) Any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1) of section 3, object to the laying of the pipelines under the land. (2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections. (3) Any order made by the competent authority under sub-section (2) shall be final."

21. After passing such order as contemplated under sub-section (3) of Section 5 of the PMP Act, the competent authority shall submit a report to the Central Government containing its recommendation on the objections for the decision of the Central Government and the Central Government upon such report shall, if satisfied that the land is required for laying pipeline for the transport of petroleum or any mineral, declare by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired under Section 6 of the PMP Act and such declaration should be notified in the official gazette. Under sub-section (2) of Section 6 of the PMP Act, once publication of declaration is made, the right of user shall vest absolutely in the Central Government free from all encumbrances. Sub-sections (1) and (2) of Section 6 of the PMP Act reads as follows:-

"6. Declaration of acquisition of right of user.—(1) Where no objections under sub-section (1) of section 5 have been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be 2 [either make a report in respect of the land described in the notification under sub-section (1) of section 3, or make different reports in respect of different parcels of such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government] and upon receipt of such report the Central Government shall, if satisfied that such land is required for laying any pipeline for the transport of petroleum or any mineral,] declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired. 3 [and different declarations may be made from time to time in respect of different parcels of the land described in the notification issued under sub-section (1) of section 3, irrespective of whether one report or different reports have been made by the competent authority under this section.

(2) On the publication of the declaration under sub-section (1), the right of user 1 [in the land specified therein] shall vest absolutely in the Central Government free from all encumbrances."

22. In the instant case, a notification under Section 3(1) of the PMP Act was issued on 15.06.2017 and the same was subsequently published in the Government of India Extraordinary on 23.06.2017, inviting objections from the interested persons within 21 days from the date of issuance of such notification. The gazette was also published in the Notice Board of the District Collector, Tiruvallur and Office of the Revenue Divisional Officer, Tiruvallur on 07.07.2017 and at the Office of the Tahsildar, Uthukkottai on 30.06.2017. Thereafter, a notice was issued to the petitioner on 05.07.2017 calling upon his objections, if any. Pursuant to the same, the petitioner had also submitted his objections by way of speed post on 19.07.2017 which was received by the 3rd respondent on 07.08.2017. Thereafter, an enquiry was conducted on 11.10.2017 under Section

5(2) of the PMP Act, wherein the petitioner had appeared and submitted his further objections. According to the 3rd respondent, the objections of the petitioner were considered and were over-ruled by him. Thereafter, a report was submitted to the Central Government and the Central Government, in turn, upon considering the report and on being satisfied that the lands were required for the project, issued a declaration under Section 6 of the PMP Act which was also published in the Government of India Gazette on 15.03.2018. Hence, this court is of the view that the procedures contemplated under the PMP Act have been duly followed by the respondents and this court does not find any procedural violations and as such the contention of the petitioner that the respondents did not conduct the enquiry as contemplated under the PMP Act is only liable to be rejected.

23. So far as the next contention of the petitioner that in respect of S.No.33, sub division of the land was not correctly given in the notification which deprived the right of the petitioner to raise his objections. But, it has been controverted by the respondents saying that in the notification issued under Section 3(1) of the PMP Act in absence of FMB sketch and village record, the sub division number of the land could not be mentioned, however, survey No.33 has been published in full, and immediately after having obtained the updated sub division number of the land belonging to the petitioner from the revenue authorities concerned suitable notification was issued to the concerned owners. It is the specific contention of the respondents that the petitioner had sufficient knowledge that his land comprised in S.No.33/1 was also the subject matter of acquisition and based on the same only he had submitted his objections in respect of entire extent of land in S.No.33 and appeared for enquiry and as such non mentioning of the sub division of the survey number could not have caused any prejudice to him. I find some force in the contention of the learned counsel for the respondents.

24. So far as the contention of the learned senior counsel for the petitioner that, already a right of way has been acquired for laying LPG pipeline and LNG pipeline can also be laid along the side of the LPG line. But, this contention cannot be considered at this point of time because, the 3rd respondent has now submitted that the proposed LPG pipeline has been shelved and notification is going to be issued for de-notifying the right of user in the lands already notified. The relevant portion of the counter affidavit filed by the 4th respondent reads as follows:-

"20 (e) I submit that the RoW for the ETMPL LPG pipeline alignment is not acquired completely and no compensation payment has been made as on date due to changed supply - demand scenario of LPG on account of upcoming

new refinery at Nagapattinam. Since the RoW not acquired in totality and the project is shelved necessitating the de-notification of Right of User (RoU) notified is stretches."

Since LPG project itself has been shelved and the right of user acquired in lands for laying of LPG pipeline is going to be re-notified, the submission of the learned senior counsel for the petitioner in this regard cannot be considered.

25. So far as the change of alignment is concerned, law on this issue is well-settled. The alignment was designed based on the opinion of the Experts. Normally, the court should not interfere in the opinion of the experts, unless it is established that it was done with malafide intention and the court also cannot substitute its own view as the court does not have expertise in such a matter. But, in the instant case, no malafide or arbitrariness has been alleged and the respondents have submitted extensively that only based on the experts opinion the alignment of pipeline has been fixed. In the above circumstance, this court cannot interfere with the decision taken by the authorities regarding fixing of alignment.

26. Considering the entire materials and the submissions made on either side, this court is of the considered view that there is no reason to interfere with the impugned acquisition proceedings initiated by the respondents. Thus, the writ petition fails and the same deserves only to be dismissed.

27. In the result, the writ petition is dismissed. No costs. Consequently, connected WMPs are closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

kmk

To

1. The Secretary to Government, Ministry of Petroleum and Natural Gas, Government of India, New Delhi.

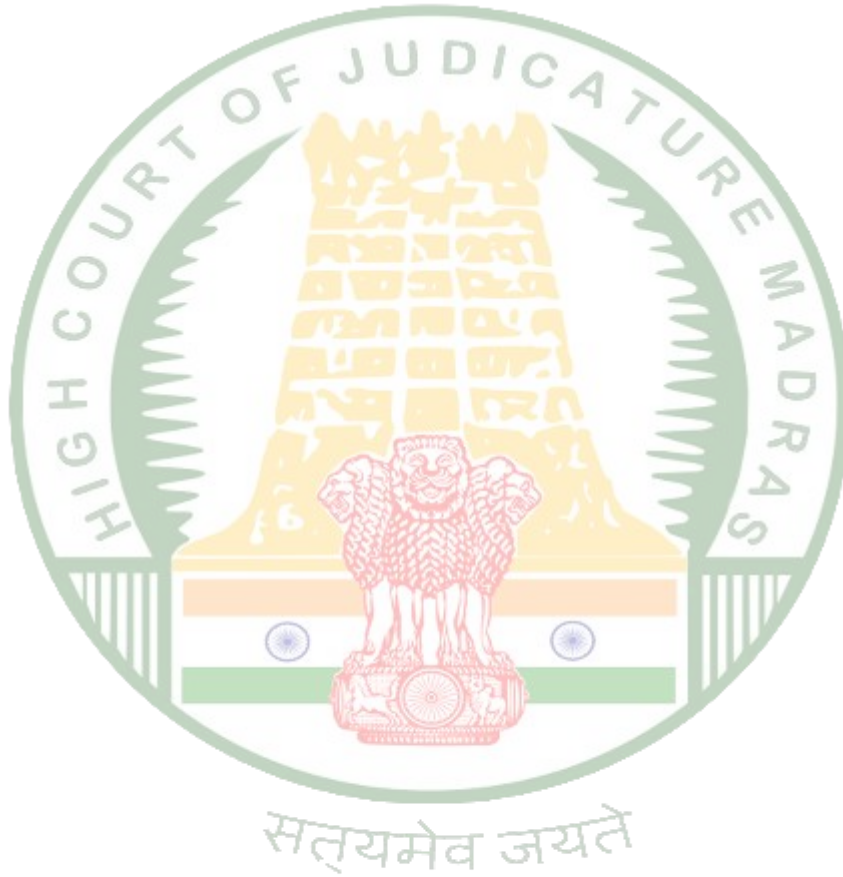
2. The Under Secretary to Government, Ministry of Petroleum and Natural Gas, Government of India, New Delhi.

3. The Land Acquisition Officer-cum-Competent Authority, Indian Oil Corporation Limited, ATF, CBPL, CBRT & ET-LPG, Pipeline Projects, Plot No.14, Jayaprakash Street, V.C.P.Nagar, Rajajipuram, Tiruvallur 602 001.

+1 CC to The Govt. Pleader sr 22632.
+2 Ccs to Mr.David Tyagaraj, Advocate sr 21752.
+1 CC to Mr.G.M.Mani, Advocate sr 21848.
+1 CC to Mr.G.KArthikeyan, Advocate sr 22344.

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SSD(CO)
SP(22/04/2019)



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