

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.03.2019
CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.19004 of 2018
and
W.M.P.Nos.22397 to 22399 of 2018

M.Ameer Hussain ... Petitioner
Vs.

- 1.Oil and Natural Gas Corporation Ltd.,
(Union Government Undertaking)
Represented by its Chief Manager (HR) (LAQ),
Cauvery Asset, Land Acquisition Section,
Neravy, Karikal, Puducherry,
- 2.The District Collector,
Nagapattinam,
Nagapattinam District.
- 3.The District Revenue Officer,
Nagapattinam,
Nagapattinam District. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the communication made in No.KKL/CA/LAQ/KUT#6/F-209 dated 05.06.2018 issued by the first respondent quash the same and forbearing the first respondent from using the lands for exploring Gas and Oil till initiation of land acquisition proceeding afresh under the provisions of Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013.

For Petitioner : Mr.R.Dhanaram & W.S.R.Abirami

For Respondents : Mr.P.N.Radha Krishnan for R1
Mr.D.Raja for RR2 & 3
Government Advocate

O R D E R

This Writ Petition has been filed to quash the communication No.KKL/CA/LAQ/KUT#6/F-209 dated 05.06.2018 issued by the first respondent and to forbear the first respondent from using the

lands for exploring Gas and Oil till the initiation of the land acquisition proceeding afresh.

2. According to the petitioner, his father is the absolute owner of the lands comprised in Survey Nos.107/3A, 107/3B, 108/2A and 108/2B at Mathrimangalam Village, Kuttalam, Nagapattinam District and he executed an authorisation letter dated 15.06.1998 in favour of the first respondent, to explore Oil and Gas in the lands to an extent of 2.32 acres, on temporary lease, which fact was not aware of by the petitioner. From the date of the execution of the said letter, the 1st respondent commenced work and used to transfer the lease amount to the joint account. While so, the 1st respondent sent a communication dated 22.12.2012 to the 2nd respondent requesting acquisition of land under the provisions of the Land Acquisition Act, 1894, without issuing any notification. Till 12.12.2017, the lease amount has been deposited by the 1st respondent without any enhancement. When the things stood thus, the petitioner issued a legal notice dated 05.02.2018 to the respondents to vacate and handover the possession. At that time, he came to know about the communication, dated 05.06.2018, wherein, it is stated that the lands belonging to him were acquired temporarily and annual compensation fixed by the 3rd respondent has been paid and that, necessary proposal has been forwarded to the 2nd respondent to acquire the said lands permanently under the Land Acquisition Act and the same is pending. Hence, the petitioner is before this court with the present writ petition.

3. The learned counsel for the petitioner contended that the petitioner's lands have been handed over by his father, to the 1st respondent, not for acquisition, but only for temporary lease, due to which, the nature of the lands was already changed. The learned counsel further contended that the 1st respondent without issuing any notification, sent proposal to the 2nd respondent, for acquisition, which is barred under the Land Acquisition Act. Hence, he seeks for issuance of fresh notification under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Thus, the learned counsel prayed for a direction to the respondents to initiate fresh land acquisition proceedings under the provisions of the said Act.

4. Upon service of notice, counter affidavits were filed by the respondents 1 and 2.

5. The learned counsel for the 1st respondent vehemently opposed the contentions so raised by the learned counsel for the petitioner. Reiterating the averments stated in the counter

affidavit, he contended that the stay of the acquisition proceedings would be unnecessary at this stage. Further, the petitioner received the annual compensation upto 31.03.2018. Hence, he prays before this Court that the 2nd respondent may be directed to initiate permanent acquisition proceedings as expeditiously as possible.

6. The learned Government Advocate appearing for the respondents 2 and 3 contended that the 1st respondent has submitted proposal for acquisition by private negotiation and based on the said proposal, the authorities concerned have been directed and the proceedings are awaited, however, preliminary action was taken. Hence, he submitted that the surrender of the possession of the petitioner's lands at this stage, is not possible.

7. On a perusal of records, it reveals that the 1st respondent has entered into private negotiation with the petitioner and hence, the relief sought for by the petitioner with regard to handover the vacant possession, at this belated stage is not possible by the 2nd respondent.

8. However, considering the submissions made by the learned counsel on either side, this Court directs the second respondent to pass orders with regard to initiation of land acquisition proceedings afresh, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as any other interested parties, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. The parties are directed to co-operate with the respondent authorities in this regard.

9. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.Oil and Natural Gas Corporation Ltd.,
(Union Government Undertaking)
Represented by its Chief Manager (HR) (LAQ),
Cauvery Asset, Land Acquisition Section,
Neravy, Karikal, Puducherry,

2.The District Collector,
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Nagapattinam District.

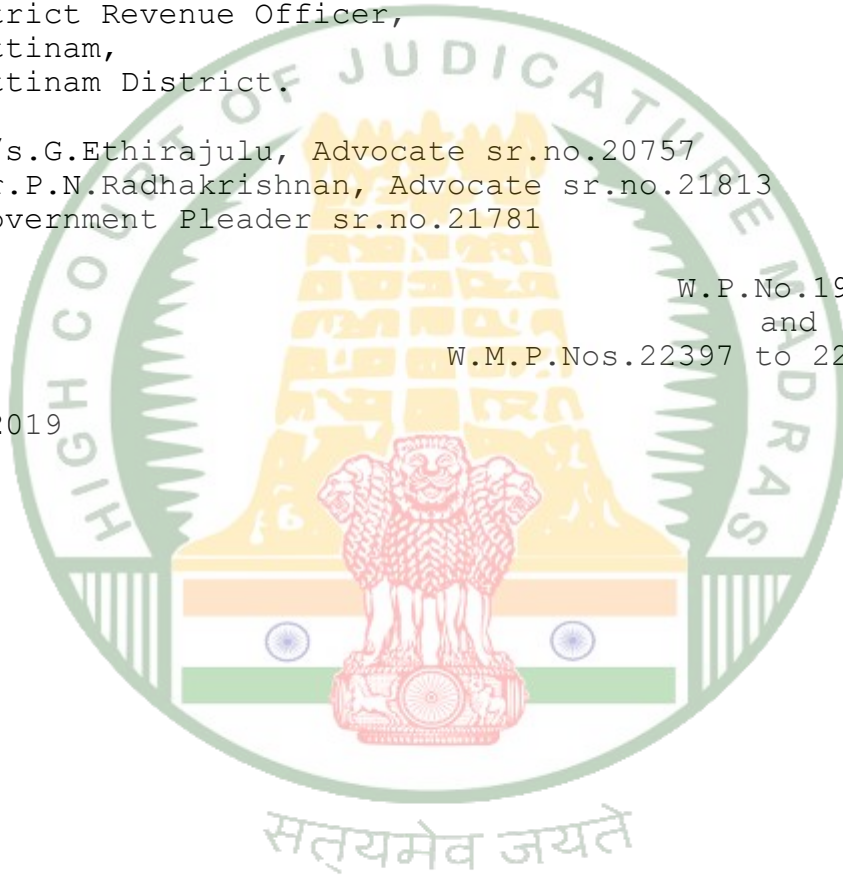
3.The District Revenue Officer,
Nagapattinam,
Nagapattinam District.

+lcc to M/s.G.Ethirajulu, Advocate sr.no.20757
+lcc to Mr.P.N.Radhakrishnan, Advocate sr.no.21813
+lcc to Government Pleader sr.no.21781

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nr 05/04/2019



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