

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2020

CORAM :

THE HON'BLE MR.AMRESHWAR PRATAP SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.283 of 2020

1.Karu Nachinar Kinian
2.A.R.N.Lakshman ... Appellants/Petitioners

vs.

1. Government of India,
rep. by Under Secretary to Government,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Rajendra Prasad Road,
New Delhi, Delhi-110 002.

2. Indian Oil Corporation Limited,
Chief General Manager (Constructions),
Southern Region Pipelines,
House of Four Frames,
No.6/13, Wheat Croft Road,
Nungambakkam, Chennai - 600 034. ... Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 25.11.2019 passed by the learned Single Judge in W.P.No.29014 of 2019.

W.P.No.29014 of 2019:

Writ of Mandamus , forbearing the 2nd Respondent from invoking the Provisions of Petroleum and Minerals Pipelines(Acquisition of Right of User In land) Act 1962 against the Petitioners Land situate in Plot No 63,64 Om Prakash Nagar Comprised in S.NO 606/1 Kunrathur village measuring about 4800 square feet without Following due Process of Law and consequently forbear the 2nd Respondent from demolishing the Superstructure put by the Petitioner.

For Appellant : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.AL.Ganthimathi

For Respondent : Mr.G.Karthikeyan
ASG

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard Shri AR.L.Sundaresan, learned Senior Counsel for the appellants.

2. Learned Senior Counsel for the appellants contends that the constructions which have been raised are not prohibited and if the Indian Oil Corporation or the respondent authorities were of the opinion that they ought to be removed, then the procedure prescribed is under the Statute under Section 9 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962. It is urged that the acquisition is only for the limited user of laying pipelines and it is not the absolute transfer of the property either in favour of the Union of India or the Indian Oil Corporation. It is only the right of the user of the land which is protected and consequently, the attempt of the respondent Corporation to call upon the appellants to remove the constructions is contrary to law and intent of the aforesaid statutory provision.

3. We have considered the submissions raised and from the record, we find that admittedly the acquisition proceedings took place way back in the year 2006-2007. The appellants have purchased the property in the year 2019. The right of user in the land has been protected under the notification issued under the said Act.

4. The appellants have also taken a plea that when they purchased the land, their vendor did not inform them about any such acquisition proceedings. We find from the translated copy of the sale deed that there is an indemnity clause contained therein that if in contra, any encumbrance, lieu, or any other dispute arises and if known, it shall be settled at the cost of the vendor. In the instant case, it is not the case of the appellants that the constructions were raised prior to the purchase. In such circumstances, to us, it appears that the appellants have carried out and altered the user of the land at their own risk by raising constructions. If they intend to seek any injunction as against any such statutory violation or

otherwise, it is open to them to approach the appropriate forum that may be available in accordance with law.

5. We see no reason to interfere with the impugned judgment and accordingly, the appeal is, rejected. Consequently, C.M.P.No.4623 of 2020 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Under Secretary to Government,
Government of India,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Rajendra Prasad Road,
New Delhi, Delhi-110 002.
2. The Chief General Manager (Constructions),
Indian Oil Corporation Limited,
Southern Region Pipelines,
House of Four Frames,
No.6/13, Wheat Croft Road,
Nungambakkam, Chennai - 600 034.

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