



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD)No.507 of 2020

and

C.M.P. (MD) .No.3591 of 2020

M/s.Pioneer Power Ltd,
Rep. by its Chief General Manager,
Therkukattur Village, Valantharavai,
Ramanathapuram Taluk,
Ramanathapuram District.

... Appellant/Petitioner

Vs.

1. Union of India,
Rep. by its Secretary Ministry of Petroleum
and Natural Gas,
New Delhi.

2.The Director,
Ministry of Environment and Forests,
Paryavaran Bhavan, Lodi Road,
GCO Complex, New Delhi.

3. The Competent Authority Cum-
Deputy Collector,
Indian Oil Corporation Limited,
ETBPNMT-Pipeline Projects,
Ramanathapuram.

4. The Construction Manager,
Indian Oil Corporation Limited,
House No.3/3314-II,
Athmanathasamy Nagar, South 2nd Street,
Pattinamkathan,
Ramanathapuram District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order of this Court made in W.M.P.(MD) No.6169 of 2020
in W.P.No.6780 of 2010 dated 17.06.2020.

Prayer in WMP(MD). 6169/ 2020 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue an order of interim
injunction restraining the respondent from laying pipeline in the



petitioners company properties of green belt area of the properties in S.No.S.No.203/4B1C, 203/4B1B , 203/4B2, 203/2B2, 203/4B1A, 203/2B1, 203/3B and 203/2B2 in Valantharavai village, Ramnad Tk, Ramnad District pending disposal of the above WP and thus render justice.

Prayer in WP(MD). 6780/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the 1st respondents impugned Notification No.SO 2449(E) published in Extraordinaty Part II, Gazette of India, dated 31.7.2017 and 1st respondent Sec.6(1) Notification NO.SO 3333(E) published in Extraordinaty Part II, Gazette of India, dated 12.9.2019 issued under the Petroleum and Minerals Pipe Lines impugned proceedings in CA/RMD/RTPL/30/2019 dated 20.3.2020 in respect of the petitioner company properties in S.No.203/4B1C in an extent of 95 sq Meters, 203/4B1B in an extnet of 30 sq Meters, 203/4B1A in an extent of 45 sq Meters, in203/2B1 in an extent of 20 sq Meters, 203/3B in an extent of 60 sq Meters and 203/2B2 in an Extet od 65 sq meters in an total extend of 8415 sq.meters out of 16 Acre 69 cents, Valantharavai Village, Ramanathapuram Taluk, Ramanathapuram Distrct is liable to quash abd consequently directing the respondents to re route the proposed petroleum trasnport pipeline in any other alternative site in accordance with law.

For Appellant : Mr.G.Jeremiah

For Respondents : Mr.V.Kathirvelu
Additional Solicitor General of India
for R1

**(*Mr.K.Muralidharan,Standing Counsel
for R3 & R4**

J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The writ petitioner is the appellant herein and aggrieved by the negating of the interim prayer for adinterim order in W.M.P(MD).No.6169 of 2020 made in W.P.(MD).No.6780 of 2020, vide impugned order dated 17.06.2020, he came forward to file this Writ Appeal.

2. Mr.G.Jeremiah, learned counsel appearing for the appellant/writ petitioner has drawn the attention of this Court to the typed set of documents and would submit that the appellant/writ petitioner had purchased the land admeasuring an



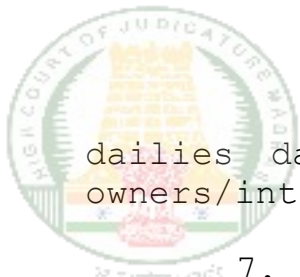
extent of 16.69 acres in Valantharavai village, Ramanathapuram Taluk and District, for establishing a private power generation plant of 52.8 M.W. by using Natural Gas fully supplied by the GAIL (India) Limited and the energy generated is being supplied to Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO) grid.

3. The learned counsel appearing for the petitioner would submit that the third respondent has served a notice dated 23.03.2020, stating among things that part of the lands belonging to the appellant/company in Survey Nos.203/4B1C, 203/4B1B, 203/B1A, 203/2B1, 203/3B and 203/2B2, Valantharavai village, admeasuring an extent of 8415 sq.meters out of 16.69 acres has been taken by the virtue of declaration under Section 6(1) of Petroleum and Minerals, Pipelines (Acquisition of Right of user in Land) Act, 1962 (in short P & MP Act).

4. The primordial submission made by the learned counsel appearing for the petitioner is that the mandates of Section 3(1) of the said Act have not been complied with and that apart, the said lands have been developed as a Green Belt in terms of the consent given by the Tamil Nadu Pollution Control Board and further pointed out, once the pipeline is laid, no trees can be planted on the site, since it affects the Green cover portion and the appellant/company may also liable to pay tax at the hands of Tamil Nadu Pollution Control Board as well as other entities. In the light of the above facts and circumstances, the appellant company has clearly established a *prima facie* case for grant of interim orders. However, the learned Single Judge without taking note of factual circumstances and the legal position, has erroneously declined to grant interim orders and prays for appropriate orders.

5. This Court also heard the submissions of the learned counsel appearing for the respondents 3 and 4.

6. Mr.V.Kathirvelu, learned Additional Solicitor General of India, accepts notice on behalf of the first respondent. The respondents 3 and 4 had filed the common counter affidavit and in paragraph No.9, they would aver that the notification under Section 3(1) of P & MP Act expresses the intention of the Government of India acquiring right of user in the lands and it was sent to the writ petitioner vide office intimation, dated 01.09.2017 and the same has been returned with the endorsement "Refused to receive" by the concerned Village Administrative Officer on 16.11.2017 and that apart, by the way of wide publicity, the details of the notification under Section 3(1) of the P & MP Act was also published in National and Vernacular



dailies dated 12.10.2018, for further information of the land owners/interested persons over the said lands.

7. In paragraph No.13 of the counter affidavit, the respondents 3 and 4 took a stand that the underground pipeline laying works have been completed and the land above said pipeline has been restored to the original condition and as such, the interim relief sought for by the petitioner become infructuous.

8. Though the learned counsel appearing for the appellant strongly refused and denied the said averments and this Court is of the considered view that the grounds urged by the learned counsel appearing for the appellant can be adjudicated only at the time of final disposal of the writ petition, it *prima facie* appears that the statutory authority has exercised the statutory function and the alleged infraction can be found out only at the time of going through the records, which can be done at the time of final hearing of this Writ Appeal.

9. The learned Single Judge has taken note of the said aspects and rightly declined the prayer for interim orders sought by the appellant. Therefore, **the writ appeal is dismissed**, confirming the order dated 17.06.2020. It is also made clear that the observations made in the impugned order, which is the subject matter of this Writ Appeal, or in this judgment, did not go into the merits or otherwise of the claim/defense projected by both parties.

10. At this juncture, the learned counsel appearing for the appellant/writ petitioner prays for early hearing and disposal of the Writ Petition. Therefore, Registry is directed to accord priority and list the writ petition for final disposal on 16.09.2020. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

**(*) Amended as per order of
this Hon'ble Court Dated 31.08.2020**

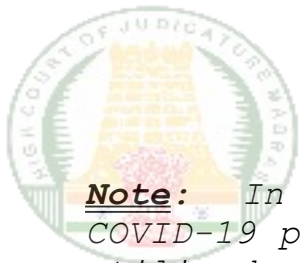
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

(*) To be Substituted the order already despatched on 17.08.2020

1.Secretary,
Union of India,
Ministry of Petroleum and Natural Gas,
New Delhi.

2.The Director,
Ministry of Environment and Forests,
Paryavaran Bhavan, Lodi Road,
GCO Complex, New Delhi.

3.The Competent Authority Cum-
Deputy Collector,
Indian Oil Corporation Limited,
ETBPNMT-Pipeline Projects,
Ramanathapuram.

4.The Construction Manager,
Indian Oil Corporation Limited,
House No.3/3314-II,
Athmanathasamy Nagar, South 2nd Street,
Pattinamkathan,
Ramanathapuram District.

Copy to

The Section officer, Writ section,
Madurai Bench of Madras High Court,
Madurai.
(for listing the case)

W.A. (MD) No.507 of 2020

and

C.M.P. (MD) .No.3591 of 2020

04.08.2020

KB(14.08.2020) 5P 6C

TR(14.09.2020) 5P 6C