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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.3773 OF 2021
W.M.P.NOS.4300 & 4303 OF 2021

1. Bhanu Prasad
2. Krishna Prasad
3. Silpa Boyapati

... Petitioners

-Vs-

1. The Government of India
Rep. by its Under Secretary,
Ministry of Petroleum and Natural Gas,
Sasthri Bhawan,
New Delhi - 110 001.
2. The Collector,
Thiruvallur District,
Thiruvallur - 602 001.
3. The Land Acquisition Officer
cum Competent Authority,
ATF, CBPL, CBRT & ET-LPG Pipeline Projects,
Plot No.14, Jayaprakash Street,
VGP Nagar, Rajajipuram,
Tiruvallur - 601 001.
4. The Chief General Manager CPIO,
Indian Oil Corporation Limited,
Southern Region Pipelines,
House of Four Frames,
6/13, Wheat Crofts Road,
Nungambakkam,
Chennai - 600 034.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Gazette Notification ref. No.S.O.2001(E) dated 15.06.2017 for the lands comprised in Survey Nos.137/6A1, 137/5C, 137/5B,



137/5D1, 137/6C of Panchetty Village of Ponneri Taluk, Thiruvallur District and quash the same and consequentially direct the respondents to implement the acquisition in terms of the gazette notice dated 21.05.2015.

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For Petitioner : Mr.P.Solomon Fracis

For Respondents

For R1 : Mr.M.Sunder Vijay Arul Ram

For R2 : Mr.A.Selvendran
Special Government Pleader

For R3 & R4 : Dr.S.S.Swaminathan

ORDER

The Writ Petition has been filed to call for the records of the first respondent in Gazette Notification ref. No.S.O.2001(E) dated 15.06.2017 for the lands comprised in Survey Nos.137/6A1, 137/5C, 137/5B, 137/5D1, 137/6C of Panchetty Village of Ponneri Taluk, Thiruvallur District and quash the same and consequentially direct the respondents to implement the acquisition in terms of the gazette notice dated 21.05.2015

2. The case of the petitioners is that they are the joint owners of the property to an extent of 7.05.5 acres in survey Nos.137/3D1, 137/4B1, 137/5A1, 137/6A1, 137/3D, 137/4B, 137/5A, 137/6A, 137/5C, 137/4A, 137/5B, 137/4B, 137/5D1, 137/6C, 193/3, 137/4A2 situated at Panchetty Village, Ponneri Taluk, Thiruvallur District. The said property was purchased by their father in the year 2008 and thereafter he died on 06.01.2020. Their mother executed a Release Deed dated 29.12.2020 registered vide document No.12218 of 2020 in favour of the petitioners.

3. While being so, pursuant to the proposal for transportation of petroleum products between Ennore - Chengalpattu - Pondicherry - Trichy - Madurai, a notification was issued on 21.05.2015, under Section 3(1) of the the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (hereinafter called as "the Act"). Under the said notification various lands were sought to be notified under the right of user in the land. The petitioners' lands in S.Nos.137/5D, 137/6C were also notified under the said notification. Further the notification was not done inconsonance with legal parameters and no further proceedings were initiated.



4. Thereafter, another notification dated 15.06.2017 was issued and the lands belonging to the petitioners in S.Nos.137/6C, 137/6A, 137/8C and 137/5B were sought to be acquired for right of user. Further, the petitioners were not put on notice for objections or enquiry as contemplated under the Act. Therefore, the said notification is invalid on the ground that it was not served on the petitioners or their family members. Further the said notification dated 15.06.2017 is invalid for the reason the no declaration for any portion of the land covered under the said notification has been done within one year from the date of the notification as per the Act. They have not made declaration under Section 6(3-A) of the Act, in respect of any lands within three years from the date of such notification. As on date, the petitioners were not served with notice under Section 3(1) of the Act, dated 21.05.2015 nor the second notice dated 15.06.2017. Therefore, the petitioners were not aware of the proceedings initiated under the Act for right of user untill when the officials of the fourth respondent visited the property for inspection.

5. The learned counsel appearing for the petitioners would submit that the petitioners obtained notification issued under Section 3(1) of the Act, issued by the respondents 3 & 4 and it is clear that the notification dated 17.07.2017 was sent to their father at No.2, GNT Road, Panchetty Village - 601204 and the notification was displayed at prominent locations. Therefore, it was not served upon the petitioners or their family members. The Rule 8(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963, (herein after called as "the Rules") provides for mode of service of notice. Accordingly, any notice or letter issued or any order passed may be served by delivering or tendering a copy of such notice, letter or order, as the case may be, to the persons for whom it is intended or to any adult member of his family or by sending it by registered post acknowledgment due addressed to that person at his usual or last known place of residence or business. However, the said notice was not served on the petitioners or their father at their residential address or at their business address. Their father was very much residing at No.11, Flat No.2A, 2nd Floor, 1st street Venus colony, Alwarpet, Chennai-18. Therefore, the entire notification dated 15.06.2017 is void and liable to be set aside.

6. The third respondent filed counter and the learned counsel appearing for the respondents 3 & 4 submitted that the notification under Section 3(1) of the Act, was published in the Central Gazette vide S.O.No.2001(E) dated 15.06.2017 was duly affixed in the subject properties which were sought to be acquired for the purpose of alignment of pipeline to transmit the natural gas. He also produced the records and submitted that



the notification was sent through RPAD to the petitioners' father at No.2, GNT Road, Panchetty Village, Chennai - 601 204. Since the address is not found, it was affixed in the property comprised in Survey Nos.137/6C, 137/55C and 137/5B at village No.75, Panchetty village. Thereafter, a copy of the extra ordinary gazette notification has been published in the notice board of Revenue Divisional Officer, Panneri, on 07.07.2017 and also published in the notice board of the Tahsildhar office, Ponneri on 08.07.2017. It is also published in the notice board of the Collectorate Office, Tiruvallur on 10.07.2017. Thereafter, on 19.07.2017, it was fixed with the notice board of the Village Administrative Office, Taluk office. Therefore, the said notification was duly affixed on the subject property for the reason that the said person was not found in that place.

6.1. He further submitted that as per the G.O.Ms.No.54 dated 14.02.2020, issued by the Government of Tamil Nadu, the petitioners would be compensated for both land and crops, as per procedure contemplated under the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. Accordingly, the petitioners can also get 100% of compensation for the land with restriction that the petitioner should not put up any permanent construction on the subject land and restrain from growing up any tree.

7. Heard Mr.P.Solomon Francis, learned counsel appearing for the petitioners, Mr.M.Sudar Vijay Arulram, learned Standing Counsel appearing for the first respondent, Mr.A.Selvendran, learned Special Government Pleader appearing for the second respondent and Dr.S.S.Swaminathan, learned counsel appearing for the respondents 3 & 4.

8. The notice under Section 6(1) of the Act was duly affixed in the subject property comprised in survey Nos.137/6C, 137/6A, 137/5C, 137/5D and 137/5C on 23.04.2018. The said notification was sent by RPAD and the same was returned for the reason that the addressee was not found. Under Rule 8(3) of the Rules, where the person or the adult member of the family of such person refuses to sign the acknowledgment or where the serving officer, after using all due and reasonable diligence, cannot find such person, and there is no adult member of the family of such person, the serving officer shall affix a copy of the notice, letter or order on the outer door or some other conspicuous part of the ordinary residence or usual place of business of such person and then shall return the original to the competent authority who issued the notice, letter or order, as the case may be, with a report endorsed thereon or annexed thereto stating that he has so affixed a copy, the circumstances under which he did so and the name and address of the person, if any, by whom the usual or last known place of residence or



business, as the case may be, was identified and whose person the copy was affixed.

9. Accordingly, the copy of the notice was duly affixed in the subject property, since the addressee was not found. Therefore, the only ground raised by the petitioners is that the notices under Sections 3(1) or 6(1) of the Act, were not duly served on the petitioners or their family member. In view of the above discussion, the Writ Petition is devoid of merits and is liable to be dismissed. However, the petitioners are entitled to get compensation for both the land and crops as per the procedure contemplated under the New Act, in view of the G.O.Ms.No.54 dated 14.02.2020 issued by the Government of Tamil Nadu.

10. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Under Secretary,
Government of India,
Ministry of Petroleum and Natural Gas,
Sasthri Bhawan,
New Delhi - 110 001.
2. The Collector,
Thiruvallur District,
Thiruvallur - 602 001.
3. The Land Acquisition Officer
cum Competent Authority,
ATF, CBPL, CBRT & ET-LPG Pipeline Projects,
Plot No.14, Jayaprakash Street,
VGP Nagar, Rajajipuram,
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