



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.12203 of 2021
and W.M.P.Nos.12982 & 12983 of 2021

K.S.Marimuthu

.. Petitioner

Vs.

1. The Secretary to the Government,
Government of India,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan, New Delhi - 110 001.
2. The Competent Authority / Land Acquisition Officer
Indian Oil Corporation Limited, Pipeline Projects,
Plot No.14, Jayaprakash Street,
V.G.P.Nagar, Rajajipuram,
Thiruvallur - 602 001.
3. The Deputy Collector / Competent Authority /
Land Acquisition Officer,
Indian Oil Corporation Limited, ETBPNMTPL Projects,
Mahizh Illam, Door No.13/2957-20,
Athmanantha Sami Nagar, Second Street,
Pattinamkathan Post, Ramanathapuram - 623 503.
4. The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.
5. The Village Administrative Officer,
23 Ayyanadaippu Village,
Thoothukudi Taluk, Thoothukudi District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records relating to the Notification issued by the First Respondent in S.O.2451(E), dated 31.07.2017 under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Rights of User in Land) Act, 1962 and the Declaration under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Rights of User in Land) Act, 1962 issued by the First Respondent in and by Notification in S.O.1571(E), dated 10.04.2018 in respect of petitioner's land in S.No.74/3 of extent 3 Acres and 30 cents in Kailasapuram West



Street, Ayyanadaippu Village, Thoothukudi Taluk, Thoothukudi District and quash the same in so far as his said land is concerned and direct the respondents to remove the pipeline illegally laid in his land and restore the same as it existed prior to November, 2020 and further direct the respondents to compensate the petitioner for the loss caused to him on account of the illegal laying of pipeline in his land within a time limit.

For Petitioner : Mr.P.Rajendran

For Respondent 1 : Dr.G.Babu, SPC

For Respondents 2 & 3 : Dr.S.S.Swaminathan

For Respondents 4 & 5 : Mr.K.M.D.Muhilan
Government Advocate

O R D E R

(The case has been heard through video conference)

The writ petition has been filed challenging the Notification issued under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Rights of User in Land) Act, 1962 (hereinafter referred to the 'Act') and the Declaration under Section 6(1) of the Act, issued by the First Respondent in respect of petitioner's land in S.No.74/3 measuring an extent of 3 Acres and 30 cents in Kailasapuram West Street, Ayyanadaippu Village, Thoothukudi Taluk, Thoothukudi District and a further direction to remove the pipeline laid in his land and compensate the petitioner for the loss caused to him on account of laying of pipeline.

2. The petitioner is the owner of the agricultural lands in S.No.74/3 measuring an extent of 3 Acres and 30 Cents in Kailasapuram West Street, Ayyanadaippu Village, Thoothukudi Taluk and he is doing cultivation and there are many standing fruit bearing trees and other trees. Suddenly, the respondents entered into the petitioner's land with heavy earth moving vehicles and started digging the petitioner's land and when the petitioner questioned the same, they stated that they are laying pipeline for Indian Oil Corporation for transporting gas and with the help of the police the respondent authorities started laying pipelines and immediately the petitioner raised his objections for laying pipeline in his land without following the due process of law and his objections were not considered by the authorities.



3. Further according to the petitioner, before acquiring the land under the Act, notification should be issued under Section 3(1) of the Act and a publication in the newspaper also should be made but without following the mandatory requirement, Section 6(1) declaration was issued. Thereafter, the petitioner was informed that compensation has been awarded. According to the petitioner no notice for award enquiry was issued. When the petitioner enquired, the authorities after verifying the official records stated that service of notice was attempted through the Village Administrative Officer and he returned the same with an endorsement "address not found" and as such the petitioner refused to acknowledge the notice. According to the petitioner, it is absolutely false and no attempt has been made to serve notice on the petitioner.

4. The third respondent filed a counter affidavit stating that the petitioner's land was sought to be acquired for underground natural gas pipeline project for transportation of natural gas from Ennore to Tuticorin covering 21 districts. Notification under Section 3(1) of the Act has been individually served to the land owners through the Village Administrative Officer and also pasted in the office of the revenue officials viz., Village Administrative Officer and the District Collector. In the present case, notice has been served on the land owners on 24.08.2017 and on the very same day, it was affixed at the VAO's Office and the District Collector Office and also informed the local public by beating tom tom in the petitioner's village. Apart from that Section 3(1) notification has been published in Tamil and English daily circulated in the locality on 12.10.2018, inviting objections from the land owners under Section 5(1) of the Act. After that awareness programs were also conducted in the petitioner's village in December, 2017 by the officials of the Indian Oil Corporation. After completing the enquiry, notification under Section 6 of the Act was issued in the Government Gazette dated 11.05.2018 and the same was also served on the petitioner through VAO, however the same was returned with an endorsement "landlord refused to sign". In such circumstances, the petitioner cannot contend that no notice was served to him.

5. It is also further stated that the petitioner purposefully objected to the laying of pipelines in the land for which user rights were declared to IOC under Section 6(1) of the Act and IOC was unable to lay the pipeline for a small length of 150m in the petitioner's land, due to which the entire project from Ramanathapuram to Thoothukudi for a length of 143 km was held up for a long time. In order to complete the pipeline laying work, the District Administration was approached for their assistance to resolve the issue and the Tahsildar, Thoothukudi being the enforcement authority of law and order



conducted meeting with the landowners on 25.11.2020 and 30.11.2020. All efforts were made by the IOC and the District Authorities to convince the petitioner for amicable settlement to lay the pipeline through his land. Further the request of the petitioner to re-align the pipeline along one corner of the plot was considered by IOC in the interest to complete the pipeline laying works, although IOC incurred additional pipe cost and RoU acquisition cost.

6. It is also further stated that the entire work was completed and the natural gas pipeline was commissioned in March 2021 and is in continuous round the clock operation since then. The pipeline is successfully delivering indigenous natural gas in a safe and environment friendly manner to M/s.SPIC, Tuticorin in first phase and will be subsequently extended to other customers and for City Gas distribution project of Tuticorin district, this pipeline project is immensely beneficial to the development of the district and the State as a whole benefiting the public at large. The natural gas being an environment-friendly fuel, it has effectively replaced naphtha thus reducing the pollution levels to a greater extent.

7. It was also further stated that the writ petition is nothing but an attempt to hinder the operation of the Ramanathapuram - Tuticorin Natural gas pipeline thereby depriving the benefit to the public at large and restricting the development of the State and welfare of the public. Further there is no violation of Natural Justice or Fundamental Rights on account of this project which is aimed at public interest and national progress. The pipeline is transporting natural gas and hence removal of pipeline from the petitioner's land will affect the transporting of natural gas which has already been commissioned and in operation. The lands of the petitioner have already been restored back to its original condition and the same has been handed over back for cultivation.

8. Mr.P.Rajendran, learned counsel appearing for the petitioner submitted that the petitioner being the owner of the land, he is entitled to get notice under the Act before issuance of declaration under Section 6 of the Act but absolutely, no notice was served on the petitioner and without any intimation, the authorities trespassed into the petitioner's land with heavy earthmoving vehicles and damaged the standing crops. Thereafter only the petitioner came to know about the acquisition proceedings and he immediately raised objection before the authorities and also filed a complaint before the learned Judicial Magistrate, Thoothukudi and based on the complaint, FIR was also registered against the contractor for trespassing and damaging the petitioner's land and now the investigation is pending.



9. The learned counsel further submitted that the authorities have not sent the mandatory notice to the petitioner, which is violative of the principles of Natural Justice and also violates the constitutional right over property under Article 300 (A) of the Constitution of India. He further submitted that merely because the project has been completed, it will not cure the mandatory violation committed in the acquisition proceedings and hence the same is liable to be set aside.

10. Dr.S.Swainathan, learned standing counsel appearing for the IOC submitted that it is a huge national project of laying underground pipeline for transporting natural gas from Ennore to Tuticorin. The length of the project from Ramanathapuram to Thoothukudi is 143 kms and only 150 m of the pipeline will pass through the petitioner's land. The respondents have followed the mandatory requirement and notice was issued to the petitioner through the VAO and paper publication was made as contemplated under the Act and details of which is given in the counter affidavit. When the VAO went to serve on the petitioner, he refused to receive the same and now it is not open for him to say that no notice has been served on him.

11. The learned counsel further submitted that now the entire project has been completed including the petitioner's land and now the transportation of natural gas has been commissioned from March 2021 and at this stage, the land acquisition cannot be questioned. That apart, the petitioner is fully aware of the acquisition proceedings and he also made a request to change the alignment, which was also considered by the authorities and alignment was also changed so as to avoid wastage of his agricultural land. That being the position, the petitioner cannot challenge the acquisition proceedings after the project has been completed.

12. I have heard the rival submissions and also considered the materials available on record.

13. The primordial contention of the petitioner is that acquisition proceedings has been initiated without following the mandatory requirements as contemplated under the Act and hence the acquisition proceedings is liable to be set aside. However, a perusal of the counter affidavit filed by the respondents 2 and 3 would show that the respondents have meticulously followed the procedures as contemplated under the Act and the notice was also served through the VAO and paper publication has also been made as contemplated under the Act. Even for Award enquiry, notice was served on the petitioner but he refused to receive the same. In such circumstances, now it is not open for the



petitioner to contend that the procedure as contemplated under the Act has not been followed.

14. That apart, now it is stated that the project has been completed and the respondents are transporting natural gas. It is also stated in the counter affidavit that the request of the petitioner for re-alignment was also considered so as to avoid wastage of petitioner's land after getting the alignment changed at this request, it is not open to him to challenge the land acquisition proceedings now. As rightly contended by the learned counsel appearing for the respondents, it is a national project for transporting natural gas for the benefit of general public and now the project has been completed and respondents are transporting the natural gas. That apart there is no violation of the procedures contemplated under the Act and hence there is no reason to interfere with the acquisition proceedings.

15. At this stage, the learned counsel appearing for the petitioner submitted that as it is now stated that Award has been passed and the compensation amount has been deposited with the third respondent, the respondents may be directed to serve a copy of the Award to the petitioner.

16. In the above circumstances, the writ petition is dismissed, however, the respondents are directed to serve a copy of the award on the petitioner within a period of two weeks from the date of receipt of a copy of this order and if the petitioner has any grievance over the compensation awarded by the respondents, it is always open for him to challenge the Award in the manner known to law. Consequently, the connected miscellaneous petitions are closed. No costs.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

kk
To

1. The Secretary to the Government,
Government of India,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan, New Delhi - 110 001.
2. The Competent Authority / Land Acquisition Officer
Indian Oil Corporation Limited, Pipeline Projects,
Plot No.14, Jayaprakash Street,
V.G.P.Nagar, Rajajipuram,
Thiruvallur - 602 001.



3. The Deputy Collector / Competent Authority /
Land Acquisition Officer,
Indian Oil Corporation Limited, ETBPNMTPL Projects,
Mahizh Illam, Door No.13/2957-20,
Athmanantha Sami Nagar, Second Street,
Pattinamkathan Post, Ramanathapuram - 623 503.

4. The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.

5. The Village Administrative Officer,
23 Ayyanadaippu Village,
Thoothukudi Taluk, Thoothukudi District.

+1 CC to Mr.S.S. Swaminathan, Advocate sr 36464

+1 CC to Mr.P.Rajendran, Advocate sr 36520.

+2 Ccs to Mr.G. Babu, Advocate sr 36617.

W.P.No.12203 of 2021 and
W.M.P.Nos.12982 & 12983 of 2021

GPL(CO)
SP(19/08/2021)