

S/L 27
16.06.2022
Court No.1
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION**

MAT 56 of 2022
With
CAN 1 of 2022
With
CAN 2 of 2022

**Deputy General Manager, Barauni-Guwahati
Gas Pipeline Project (BGPL), GAIL & Anr.**
Vs.
Union of India & Ors.

Mr. Jagriti Mishra
Mr. Subham Gupta
Mr. Debayan Goswami

...for the Appellants.

Mr. Sourab Kar

...for the Union of India.

Mr. Bikramaditya Ghosh
Mr. Pretom Das

...for the State.

Mr. Arju Chowdhury
Mrs. Pratusha Dutta Chowdhury
Mr. Bikash Singha

...for the respondent/writ petitioner.

In re: CAN 1 of 2022

The application is at the behest of the applicants seeking leave to appeal from the judgment and order dated May 13, 2022 passed in WPA 328 of 2022.

It is contended on behalf of the applicants that, the impugned order affects the right, title and interest of the applicants in respect of a project of Barauni-Guwahati Gas Pipeline undertaken by Gas Authority of India Limited (GAIL). It is contended that applicants

are the main acquiring authorities and that the applicants were not made party respondents in the writ petition. The interest of the applicants stands affected by the order impugned.

The respondents are represented.

In view of the contentions of the applicants, it would be appropriate to grant leave to the applicants to prefer the appeal against the order dated May 13, 2022 passed in the writ petition.

Accordingly, interim application **CAN 1 of 2022** is disposed of.

In re: MAT 56 of 2022
With
CAN 2 of 2022

By consent of the parties, the appeal is treated as on the day's list and is taken up for consideration.

As noted above, the appeal is directed against the order dated May 13, 2022 passed by the learned Single Judge.

It appears from the records made available to Court that, notice under Section 3 of the Act of 1962 could not be served upon the writ petitioner.

Consequently, since no notice under Section 3 of the Act of 1962 was served upon the writ petitioner, the time period for filing objection under Section 5 of the Act of 1962 did not commence.

The learned advocate appearing for the competent authority present in Court makes over a

copy of the notice under Section 3 of the Act of 1962 to the learned advocate appearing for the writ petitioner in Court.

Consequently, the writ petitioner is at liberty to submit objection to the notice under Section 3 of the Act of 1962 within the time specified under the Act of 1962.

Learned advocate appearing for the writ petitioner submits at this stage that the writ petition itself be treated as the written objection under the Act of 1962.

In such circumstances, the competent authority will treat the writ petition as the objection. It will afford the writ petitioner an opportunity of hearing in terms of Section 5 of the Act of 1962 within 21 days from the date of this order. All steps taken by the authorities in respect of the plot belonging to the petitioner subsequent to the notice under Section 3 of the Act of 1962 stands quashed in view of the authority failing comply with the provisions of Section 5 of the Act of 1962.

Needless to say that, the competent authority is at liberty to decide the objection in accordance with law. Depending upon the result of the decision on the objection raised by the writ petitioner, the appropriate authorities are at liberty to take steps in terms of the Act of 1962.

With the aforesaid direction, **MAT 56 of 2022** along with the interim application **CAN 2 of 2022** are disposed of.

There shall be no order as to costs.

(Debangsu Basak, J.)

(Bibhas Ranjan De, J.)