



W.P.(MD)No.6578 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 10.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.6578 of 2016
and W.M.P.(MD)No.5679 of 2016

The Competent Authority-cum-
Land Acquisition Officer,
Indian Oil Corporation Ltd.,
Chennai-Trichy-Madurai Pipeline Project,
No.10, Thiru Vi.Ka. Street,
Rajajipuram,
Tiruvallur – 1.

... Petitioner

versus

1. The Principal District Judge,
Madurai.

2. Noor Mohammed

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records
relating to the impugned order dated 30.09.2010 made in O.P.No.3 of
2006 on the file of the first respondent and quash the same.

For Petitioner : M/s.T.Antony Arul Raj



WEB COPY



W.P.(MD)No.6578 of 2016

For R1 : Court
For R2 : Mr.N.Palaniyandi

ORDER

This writ petition has been filed as against the order dated 30.09.2010 passed in O.P.No.3 of 2006 by the learned District Judge, Maudrai, awarding compensation of Rs.3,00,000/- as against the petitioner Corporation.

2. The petitioner Indian Oil Corporation has laid pipelines in between Chennai, Trichy and Madurai for transporting petroleum products through pipelines in the year 2000. For this purpose, a Notification was issued under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 for acquiring the required lands including the land of the 2nd respondent in S.No.138/3B Manappacheri Village, Melur Taluk, Madurai District. The petitioner has proceeded with the acquisition proceedings and issued a Notification under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act 1962 on 24.06.2000.



W.P.(MD)No.6578 of 2016

The Notification under Section 6(1) was also served on the 2nd respondent on 29.07.2000. For determining the compensation, a spot inspection was made and a sum of Rs.1933/- has been determined by the petitioner Corporation as the compensation to the 2nd respondent for taking the pipelines through his land. The said compensation amount was also deposited by the petitioner Corporation on 09.11.2004.

3. As against that award, the 2nd respondent is having right of appeal before the learned District Judge, Madurai, under Rule 4(3) of the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Rules 1963, however, the same has to be filed within a period of 90 days. The 2nd respondent herein has filed an appeal before the learned District Judge, Madurai, after 1 ½ years from the receipt of the compensation and the learned District Judge, Madurai, has entertained the appeal beyond the statutory period and partly allowed by his order dated 30.09.2010 in O.P.No.3 of 2016 that a Well was in existence in S.No.138/3B of the second respondent and while laying the pipelines,



W.P.(MD)No.6578 of 2016

the said Well was destroyed. A sum of Rs.3,00,000/- was ordered as compensation for destroying the said Well.

4. According to the learned counsel for the petitioner, no such Well was in existence. Before awarding the compensation, an inspection was made and during the inspection, the 2nd respondent was present and has also endorsed the same in the Mahazar prepared during the inspection. He would further submit that the appeal was entertained beyond the statutory period.

5. The learned counsel appearing for the 2nd respondent submits that the petitioner's Corporation had acquired 11 ares of lands from the second respondent, however, they used 62 sq. mtrs. only for laying the pipeline, for which, they have paid a compensation of Rs.1933/-. The Corporation designed the pipeline route from north to south of north-eastern direction in Survey No.138/3A of his lands in Survey No. 138/3B and in the southern side of Survey Nos.138/4A, 4B, 5D, 5F,



W.P.(MD)No.6578 of 2016

6A, 6B and 6C and the same was marked and recorded in the FMB and in the revenue records. They have laid the pipeline away from the Survey No.138/3A for the purpose of avoiding the irrigation Wells and standing crops in the Survey Nos.138/6A, 6B and 6C, without issuing any notice to the second respondent. Thereafter, the Well was demolished which is in Survey No.138/3B and its radius is 78'x65'x62'x76' and 30' of depth.

6. The second respondent has approached the petitioner Corporation and lodged a complaint. Without considering the same, they have issued a bank cheque of Rs.750/- as the balance award amount. The second respondent has also sent representations to the petitioner's Corporation and by the reply dated 22.06.2005, they have admitted that a Well was situated in the land, but, it was not damaged by their pipeline. Only thereafter, the second respondent filed the claim petition before the learned District Judge, Madurai, seeking compensation for damaging his irrigation Well, which was entertained



W.P.(MD)No.6578 of 2016

after condoning the delay in O.P.No.3 of 2006. The learned District Judge, after providing opportunity to the petitioner Corporation and also based on the evidence, has passed an order on 03.09.2010, awarding compensation and there is no reason to interfere with the same. The learned counsel for the second respondent relied on the findings of the District Judge and the same is referred as under:

“9. The petitioner has further claimed that well closed by the respondent at the time of laying pipeline. So he claimed Rs.4,50,000/- as compensation for the damages to the well. As far as well is concerned, P.W.1 has also deposed about the existence of the well. P.W.2 and 3 have also corroborated the evidence of P.W.1 and P.W.3 is the Record clerk in the Melur Taluk Office. He has deposed that a well was available in S.No.138/3. The adangal extract is marked as Ex.P10. Now, this evidence is corroborated by the evidence of P.W.2. He has deposed that about 12 years prior to the acquisition he worked in the same well and for digging such well Rs.10 lakhs has to be spent. So the petitioner has proved that the well was available



in the acquired land. But, the well is not available. The petitioner's contention is that it was closed. At present, there is no well at well.

10. Now the petitioner has claimed Rs.4,50,000/- as compensation for this well. Since the well was already closed, the petitioner was not able to take commission to measure the extent of the well. Now, he claimed that the well was 78'x65'x62'x76' and 30' depth. He claimed Rs.3 lakhs for the well and Rs.1,50,000/- for constructing parapet well. But the petitioner has not produced any reliable evidence regarding construction of parapet well for Rs.1,50,000/-. At the same time, the petitioner has proved that a well was available before acquisition. But, this well was not available at present. So, the petitioner is entitled to Rs.3 lakhs for closure of well alone. The point is answered accordingly.

11. In fine, the petition is allowed in part. The petitioner is awarded a compensation of Rs.3 lakhs for closure of well. In other respects, the petition is dismissed. The Corporation is directed to deposit the award amount within 2 months from this



date in default the petitioner is entitled to 6% interest from the date of default till the date of payment. No costs.”

7. He further submits that the order of the learned District Judge was challenged without obtaining sanction and without depositing the award amount and therefore, it was not entertained and the same was dismissed by this Court in W.P.(MD)SR.Nos.59907 and 59909 of 2010, on 25.01.2011. Challenging the same, the petitioner's Corporation preferred a Writ Appeal in W.A.(MD)No.478 of 2011 and the same was allowed. Pursuant to the same, this writ petition was numbered and this Court, while entertaining this writ petition on 04.04.2016, has passed an order of interim stay as follows:

“There shall be an order of Interim Stay on condition that the petitioner deposits the entire amount to the credit of O.P.No.3 of 2006 on the file of the 1st respondent/the Principal District Judge, Madurai, within a period of six weeks from the date of receipt of a copy of this order, failing which, the interim stay granted by this Court shall stand



vacated automatically, without further reference to this Court.”

8. The learned counsel appearing for the second respondent further submits that while entertaining this writ petition, this Court passed the interim order on 04.04.2016, directing the petitioner to deposit the award amount within a period of six weeks, however, the petitioner's Corporation has deposited the amount only on 09.04.2021. He further submits that after the order of the Division Bench of this Court in W.A.(MD)No.478 of 2011 dated 09.03.2011, the Hon'ble Apex Court confirmed the earlier status on 05.10.2016 and it shall be the final under Section 10(6)(2) or Sub Section 5 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 in Civil Appeal No.10019 of 2016 and therefore, this writ petition is liable to be dismissed.

9. This Court considered the rival submissions made and perused the materials placed on record.



W.P.(MD)No.6578 of 2016

WEB COPY 10. The 2nd respondent has challenged the Notification issued under Section 3(1) of the Act. For determining the compensation, a spot inspection was conducted and mahazar was prepared in the presence of the 2nd respondent. The 2nd respondent has also endorsed the same in the mahazar. He has not filed any objections at that point of time.

11. As pointed out by the learned counsel for the petitioner, the 2nd respondent has received the compensation amount determined by the petitioner. Thereafter, the 2nd respondent has filed the appeal in O.P.No.3 of 2006 on 01.04.2006 under Section 10(2) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, beyond the period of limitation. Rule 5 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963, prescribes a period of limitation of 90 days for appeal. However, the District Judge entertained the appeal and has passed an award of



W.P.(MD)No.6578 of 2016

compensation of Rs.3,00,000/-, holding that there was a Well and the same was destroyed, while laying the pipelines. This decision has been taken by the learned District Judge, Madurai, by considering the oral evidence adduced by the second respondent. The learned District Judge has failed to consider the mahazar marked before him as Ex.R7. The Magazar was prepared after an inspection in the presence of the second respondent, wherein, there is no reference about this Well, however, the learned Judge proceeded based on the oral evidence of the 2nd respondent that there was a Well and awarded the compensation of Rs.3,00,000/- to the 2nd respondent as the Well in existence was demolished by the petitioner Corporation for laying the pipeline.

12. The learned District Judge, by considering the same mahazar, rejected the claim of the 2nd respondent with regard to the claim on standing trees, however, awarded the compensation at Rs.3,00,000/-, by holding that there was a Well. The award of compensation for the alleged Well is against the available evidence and therefore the same



W.P.(MD)No.6578 of 2016

cannot be sustained.

WEB COPY

13. Accordingly, this writ petition is allowed and the order dated 30.09.2010 passed in O.P.No.3 of 2006 by the learned District Judge, Madurai, is set aside. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2023

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The learned Principal District Judge,
Madurai.



WEB COPY



W.P.(MD)No.6578 of 2016

B.PUGALENDHI, J.

ogy

W.P.(MD)No.6578 of 2016

10.11.2023