IN THE HIGH COURT AT CALCUTTA

SPECIAL CIVIL JURISDICTION

APPELLATE SIDE

Before:
THE HON'BLE CHIEF JUSTICE SUJOY PAUL,CJ.
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)

CPAN 118 OF 2026

IN

MAT 1959 OF 2023

MR. SUBRATA HAIT

VS

SRI JOYDEB MANNA, GENERAL MANAGER, (OPERATION), INDIAN OIL CORPORATION LIMITED & ANR.

For the Petitioner	:	**Mr. Indranil Nandi, Adv.**
		Mr. Deba Prasad Samanta, Adv.
		Mr. Sayak Konar,Adv.
For the alleged Contemnors	:	**Mr. Saptanshu Basu, Sr. Adv.**
		Mr. Amit Meharia, Adv.
		Ms. Paromita Banerjee, Adv.
		Mr. Sayan Dey, Adv.
Heard on	:	**10.04.2026**
Judgment on	:	**08.05.2026**
Uploaded on	:	**08.05.2026**

CHAITALI CHATTERJEE (DAS), J.:-

1. This contempt application has been filed under the Contempt of Courts Act, 1971 for willful and deliberate violation of the judgement and order dated 29.8 of 2025 passed by this court in MAT no. 1959 of 2023 in refusing to pay interest on the amount of compensation as computed by the competent authority by the order dated 22.5.2023, affirmed by the Division Bench.

2. Initially a writ petition was filed under Article 226 of the Constitution of India being WPA 19895 of 2021 praying for a writ of Mandamus directing the respondents particularly the respondent no.1 and their men and agents to forthwith pay the compensation in respect of the loss and damage suffered by the petitioner during the renovation/laying of the pipeline by the respondent no. 1 and further compensation beyond the period of two months from 20th July, 2020 the date of taking over possession of the said land to the petitioner. The further prayer made by the petitioner for a writ of Mandamus directing the respondents to forthwith and over the leasehold land of the petitioner after completing the project and if not already completed until such time the land is handed over back to your petitioner to continue to pay compensation in respect thereof to the petitioner.

3. Vide a judgement and order dated 23.3.2023 the writ Court disposed of the said writ petition by directing the competent authority to consider the prayer of the petitioner as contained in the letter dated February 7, 2022 as expeditiously as possible but positively within a period of eight weeks from the date of communication of the said order of giving an opportunity of hearing the

petitioner dispose of the same by passing a reasoned order and communicate the same to the petitioner within a period of one week from the date of passing of the said order. In terms of such order the competent authority took up the dated 17.2.2022 for consideration and after a contested hearing by an order dated 22.5.2023 disposed of the said proceeding by holding that the petitioner is entitled to further compensation @ 450 /-per decimal for 60 days for the period from 28th May, 2022 to 13th June, 2022 that is for 754 days. It was further held by the competent authority that since the petitioner did not cultivate his leasehold land from 14th June, 2022 to the date of handing over the possession on 23.3.20 23 he is entitled to get presumptive crop value in terms of Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Rules 1963.

4. The said order was assailed by filing a writ petition being WPA 13787 of 2023 and the writ Court by the judgement and order dated 25.8.2023 allowed the said writ petition by setting aside the order dated 22.5.2023 passed by the competent authority and granting liberty to the petitioner to appeal under Section 10(2) of the said Act before the concerned District Judge against the aforesaid order of the competent authority having territorial jurisdiction.

5. The petitioner being aggrieved thereby filed the appeal before the Division Bench of this court in MAT no. 1959 of 2023 and vide the order of the Appellate Court said judgement and order dated 25.8.2025 was set aside, directing upon the respondent no.1 IOCL to pay compensation as computed by the competent authority in the order dated 22.5.20 23 within a period of 30 days from the date of receipt of the server copy of the order and further granted liberty to the petitioner file an application before the concerned District Judge for enhancement of the amount of compensation within the period of three months from the date on which the amount as ordered by the competent authority is paid in full to the appellant qua the petitioner. The said order was corrected further on 2.9.25.

6. It is the case of the petitioner that the said order was duly communicated to the respondents No. 1 & 2 that is the Indian Oil Corporation Limited (pipeline division) and the Deputy General Manager (construction) Indian Oil Corporation Limited through their Advocate on Record by a letter dated 9.2.25. It is the further case of the petitioner that a special leave petition was filed by the respondents against the said judgement and order passed by this Appellate court before the Hon'ble Supreme Court of India and by an order dated 15.10.20 25 such special leave petition was dismissed. Post dismissal of the SLP the competent authority by a letter dated 7.11.20 25 informed the petitioner that a sum of Rs. 6,44,15,275/- has been ascertained as compensation as per the direction of the Hon'ble Supreme Court. It was informed by the petitioner to the competent authority by a letter dated 10.11.2025 the letter of the competent authority is not clear about payment of compensation and presumptive crop value is clubbed with interest or not and the petitioner demanded interest on the compensation amount and requested the competent authority for calculation of the compensation amount together with interest in terms of the award dated 22.3.2025.

7. A reply was given by the competent authority/the respondent No. 2 on 11.11.2025 denying about payment of any interest payable to the petitioner as the order of the competent authority dated 22.05.2023 did not mention interest on compensation and the letter of communication of the learned advocates dated 21.5.2023 did not mention interest on compensation and the judgement of the High Court dated 20.8.2025 and the order of Hon'ble Supreme Court does not mention about the interest on compensation.

The petitioner received the amount of Rs. 6, 44, 15, 275 towards compensation from the office of the respondent no.1 on 07.11.2025 without prejudice to his rights and contentions.

8. It is submitted before this court by the learned advocates of the petitioner that since several requests made no interest was paid by the respondents on the amount of compensation and presumptive crop value, the petitioner issued a notice of contempt through his Advocate on Record by his letter dated 17.11.2025 inter alia demanding payment of interest over the above-mentioned amount. The Respondent Authority specifically denied that entitlement of the petitioner of any interest on the aforesaid amount of compensation since the award dated 22.5.23 did not give a timeline for payment of such compensation and thereby willfully and deliberately violated the judgement and order of this court passed on 29.8.2025.

9. It is the contention of the learned advocate representing the petitioner that there are willful violation by the Contemnor while computing the amount of compensation and presumptive crop value while by the order dated 22.5.2023 it was directed inter alia that the awards to be prepared prior to payment and the payment of compensation to be completed within one month from the date of passing of the said order in order to eliminate the provision of Section 11(1) and 11(2) of the said Act.

10. The learned Senior Advocate Mr. Saptangshu Basu representing the respondent/contemnors submits that the IOCL has acted bona fide and strictly within the framework of law and time granted by the Hon'ble Supreme Court and the petitioner has failed to substantiate its allegation to show cogent reason for maintaining this contempt Application. It is further submitted that the time granted by the Division Bench of this court merged with the judgement and order passed by the Hon'ble Supreme Court whereby six weeks' time was granted to the petitioner to deposit the amount of compensation and nothing was mentioned about payment of interest. The authority has already paid the amount of compensation in compliance thereof. It is further submitted that the award did not give a timeline for payment of such compensation and the issue of calculation of compensation as part of the award did not arise at the relevant point of time when the said order was set aside by the Single Bench.

11. It is further argued that pursuant to the direction of the Hon'ble Division Bench payment of compensation was to be made within 30 days and before expiry of such period the SLP was preferred and the judgement of the Division Bench of this court was modified by extending the time, for deposits/payment of compensation by six weeks from the date of the judgement of the Hon'ble Supreme Court and within three weeks from such date the competent authority assess and calculated the compensation and within three and half weeks thereafter approximately, IOCL paid the compensation. Hence there has been no default/delay in payment of compensation and there is no violation and this contempt application is liable to be dismissed.

12. Heard the submissions. On perusal of the judgement passed by the Court in the appeal the specific direction given to the authority was to pay the compensation as computed by the competent authority in the order dated 22.5.2023 within a period of 30 days from the date of receipt of the server copy of this order. The competent authority held that the petitioner were entitled to for further compensation of Rs 450/- per decimal for 60 days of the period from 20th May 2020 to 13th June 2022 i.e for 754 days as they do not cultivate the lease land from 14th June 2022 till the date of handing over the possession on 23.3.2023. It was further ordered that they are entitled to get present crop value in terms of Rule 4(2) (e) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land Rules, 1963 for 283 days which will be 80% of the crop value. Direction was issued for payment of compensation within one month from the date of passing of the order by the competent Authority and the said order was put to challenge by IOCL which was allowed by the Appellate court. Terms of section 11(1) and 11(2) of The Petroleum and Minerals Pipelines (Acquisition etc.) Act, 1962 speaks about:

> **11. Deposit and payment of compensation-**
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> Sub-section (1) speaks of that the amount of compensation determined under section 10 shall be deposited by the Central Government, the State Government or the corporation, as the case may be, with the competent authority within such time and in such manner as may be prescribed.

(2) If the amount of compensation is not deposited within the time prescribed under sub-section (1), the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay interest thereon at the rate of six per cent. Per annum from the date on which the compensation had to be deposited till the date of the actual deposit. (Emphasis Supplied)

13. In the decision as relied upon reported in ***State of Uttar Pradesh and Another versus Virendra Bahadur Katheria and others***[1] in paragraph 41 observed and held;

> *41. The doctrine of merger although has its roots in common-law principles, but has been deeply interspersed in Indian jurisprudence, through a series of decisions. This court in Kunhayammed vs Stae of Kerala (2000) 6 SCC 359 elucidated this doctrine which has been further affirmed and reiterated in Khoday Distilleries Ltd .vs Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd (2019) 4 SCC 376, this court has expressly laid down as follows:*
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> *42. "To Merge" means to sink or disappear in something else; to become absorbed or extinguished; to be combined or be swallowed up. Merger in law is defined as the absorption of a thing of lesser importance by a greater, whereby the lesser ceases to exist, but the greater is not increased; an absorption or swallowing up so as to involve a loss of identity and individuality.*
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> *44. To sum up, our conclusions are:*

[1] (2024) 15 SCC 1

i) where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, the decision by the subordinate forum merges in the decision by the superior forum and it is the latter which subsists, remains operative and is capable of enforcement in the eye of the law.

(ii) The jurisdiction conferred by Article 136 of the Constitution is divisible into two stages. First stage is up to the disposal of prayer for special leave to file an appeal. The second stage commences if and when the leave to appeal is granted and special leave petition is converted into an appeal.

(iii) The doctrine of merger is not a doctrine of universal or unlimited application. It will depend on the nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or capable of being laid shall be determinative of the applicability of merger. The superior jurisdiction should be capable of reversing, modifying or affirming the order put in issue before it. Under Article 136 of the Constitution the Supreme Court may reverse, modify or affirm the judgment-decree or order appealed against while exercising its appellate jurisdiction and not while exercising the discretionary jurisdiction disposing of petition for special leave to appeal. The doctrine of merger can therefore be applied to the former and not to the latter

iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order i.e. gives reasons for refusing the grant to leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties."

(vi) Once leave to appeal has been granted and appellate jurisdiction of the Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before Supreme Court the jurisdiction of the High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Rule 1 of Order 47 CPC."

14. In the case of ***Virendra Kumar Katheria*** lastly it was held that if Special Leave was not granted and the petition was dismissed by a reasoned order or unreasoned order ,the order under challenge would not merge with the order of dismissal .It was clarified further that if such leave is granted and the Appeal is subsequently dismissed with or without reason the doctrine of merger comes into play resulting in merger of the order under challenge with that of the appellate forum and then only the latter would hold the field.

15. In this case the Special Leave petition was dismissed but only an extension was granted which can in no way be said to be merger and the respondent authority should have complied with the order of the competent authority in consonance of section 11 (1) & (2) of the The] Petroleum and Minerals Pipelines (Acquisition etc.) Act, 1962 calculating the amount with the interest on the amount of compensation and presumptive crop value with effect from the date of the order of competent authority i;e from 22.5.23 .

16. Therefore the contemnor is directed to comply the order within a period of 4 weeks from the date of the server copy of receipt of the server copy of the order.

17. Matter be listed 6 weeks hence for compliance.

18. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

I agree

(SUJOY PAUL, CJ)

[CHAITALI CHATTERJEE (DAS), J.]