



W.P.No.38435 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 21.12.2024

(W.P.No.39481 of 2024 Dated 02.01.2025)

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.Nos.38435, 36551, 35662 & 39481 of 2024
W.M.P.Nos.41632, 41633, 39401, 39402, 39403, 38517, 38519, 42743
& 42744 of 2024

S.Sarojini ...Petitioner in
W.P.No.38435 of 2024

1.N.Arumugam

2.K.Natarajan

3.R.Subramaniam

4.M.Eswaramoorthy

5.M.Saraswathy ...Petitioners in
W.P.No.36551 of 2024

Ganesan ...Petitioner in
W.P.No.35662 of 2024

Vs

1.The Union of India,
Represented by its Secretary to Government,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan, New Delhi – 110 001.



W.P.No.38435 of 2024

2. Petroleum and Natural Gas Regulatory Board (PNGRB)

Represented by its Chairperson,

1st Floor, World Trade Center,

Babar Road, Barakhamba,

New Delhi – 110 001.

3. The District Collector,

Office of the District,

Coimbatore District, Coimbatore.

4. The Project Manager,

Irugur- Devangonhi Pipeline Project – Project Office,

Bharat Petroleum Corporation Limited,

Irugur, Coimbatore.

5. The Authorized Officer/Competent Authority,

Irugur-Devangonhi Pipeline Project,

Bharat Petroleum Corporation Limited,

Ravathur, Irugur, Coimbatore.

...Respondents

W.P.Nos.38435, 36551 & 35662 of 2024

In W.P.No.39481 of 2024:-

K.R.Chandran

...Petitioner

Vs.

1. The Union of India,

Represented by its Secretary to Government,

Ministry of Petroleum and Natural Gas,

Shastri Bhawan, New Delhi – 110 001.

2. Petroleum and Natural Gas Regulatory Board (PNGRB)

Represented by its Chairperson,

1st Floor, World Trade Center,

Babar Road, Barakhamba,

New Delhi – 110 001.



W.P.No.38435 of 2024

WEB COPY

3.The District Collector,
Office of the District,
Tiruppur District.

4.The District Collector,
Office of the District,
Coimbatore District, Coimbatore.

5.The Project Manager,
Irugur- Devangonathi Pipeline Project – Project Office,
Bharat Petroleum Corporation Limited,
Irugur, Coimbatore.

6.The Authorized Officer/Competent Authority,
Irugur-Devangonathi Pipeline Project,
Bharat Petroleum Corporation Limited,
Ravathur, Irugur, Coimbatore.

PRAYER in W.P.No.38435 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records in connections with the Impugned letter in Na.Ka. No. 14/2023-IDPL/kangeyampalayam dated 01.11.2023 issued by the 5th respondent under Section -7(1) of the Petroleum and minerals Pipelines (Acquisition of Right of User in Land) Act 1962, and quash the same.

PRAYER in W.P.No.36551 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records of the impugned paper publication of the 5th respondent issued in the Tamil Daily Newspaper “Daily Thanthi (Dhina Thanthi)”, Tiruppur Edition dated 24.11.2024 under section 7(1) of the petroleum and minerals pipelines (Acquisition of Right of User in Land) Act 1962 and quash the same.



W.P.No.38435 of 2024

PRAYER in W.P.No.35662 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue Writ of Certiorari, call for the records of the Impugned Notice of the 5th respondent made in Na.Ka. No 14 / 2023 - IDPL / Irugur dated 01.11.2023 under section 7 (1) of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act 1962 and quash the same.

PRAYER in W.P.No.39481 of 2024:-Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue Writ of Certiorari, to call for the records of the impugned orders of the 5th respondent issued in Na.Ka.No.14/2023/IDPL/Kodangipalayam and Kadambadi dated 13.3.2024 under section 7(1) (i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 and quash the same.

In W.P.No.38435 of 2024:-

For Petitioner : Mr.D.Muthukumar
For Respondents : Mr.K.Srinivasa Murthy
Senior Panel Counsel for R1 and R2
Mr.A.Selvendran
Special Government Pleader for R3
Mr.Krishna Srinivasa, Senior Counsel
For M/s.Ramasubramaniam
& Associates for R4 & R5

In W.P.No.36551 of 2024:-

For Petitioners : Mr.R.Harikrishnan for
Mr.P.Nethaji
For Respondents : Mr.B.Sudhir Kumar,
Senior Panel counsel for R1 and R2
Mr.A.Selvendran
Special Government Pleader for R3



W.P.No.38435 of 2024

Mr.Krishna Srinivasan, Senior Counsel
for M/s.S.Ramasubramaniam Associates
for R4 & R5.

WEB COPY

In W.P.No.35662 of 2024:-

For Petitioner : Mr.R.Harikrishnan
for Mr.A.M.Natraj
For Respondents : Mr.C.Kulanthaivel (For R1 & R2)
Mr.A.Selvendran (For R3)
Special Government Pleader
Mr.Krishna Srinivasa, Senior Counsel
for M/s.S.Ramasubramaniam&Associates
(for R4 and R5)

In W.P.No.39481 of 2024:-

For Petitioner : Mr.R.Nethaji
For Respondent : Mr.A.R.L.Sundaresan,
(Additional Solicitor General)
Assisted by Mr.K.Srinivasa Murthy,
Senior Panel Counsel for R1 & R2
Mr.A.Selvendran (For R3 and R4)
Special Government Pleader
Mr.Krishna Srinivasa, Senior Counsel
for M/s.S.Ramasubramaniam&Associates
for R5 and R6)

COMMON ORDER

Since all the four Writ Petitions relate to the same subject matter a common judgment is being pronounced and the facts of each Writ Petition is being narrated herein below separately.

A. Facts of the case:-

i) W.P.No.38435 of 2024:-



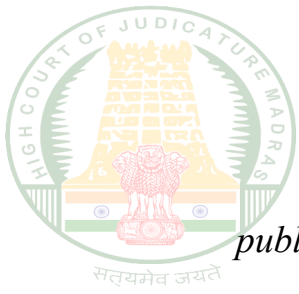
W.P.No.38435 of 2024

2.This Writ Petition is filed seeking the issue of writ of certiorari

to call for the records relating to the letter issued by the 5th respondent in Na.Ka.No.14/2023-IDPL/Kangeyampalayam dated 01.11.2023 under Section 7 (1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (herein after referred as Act) and to acquire the same.

3.It is the case of the petitioner that under a registered sale deed dated 18.03.1998, petitioner has purchased 2 acres of land in survey No.8/2 of Kangeyampalayam Village, Coimbatore. In the year 1999, the fifth respondent had issued a notice informing the petitioner that an extent of 36 square meters in survey No.8/2 would be utilized for the purpose of laying a petroleum pipeline for the Cochin, Coimbatore and Karur Petroleum Pipeline project. Notice under Section 10 of the Act was issued and in the very same notice the competent authority had informed the petitioner that the quantified compensation would be a sum of Rs.223 per sq.m. The power was being exercised by the first respondent under the Act as it has the power to acquire a right of user in land. This right was to be exercised in the following manner:-

a)a notification under Section 3 (1) of the Act was to be



W.P.No.38435 of 2024

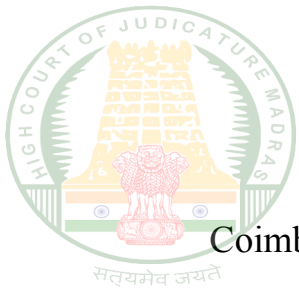
published in the Government gazette declaring the intention to acquire the right of user with a brief description of the land in question.

b)land owners are to file their objections under Section 5 within a period of 21 days from the date of the 3 (1) notification. Such objections are to be considered by the competent authority.

c)A declaration under Section (6) of the Act through a notification in the official gazette that the right of user is to be acquired and after such declaration the land vests with the Government.

d)Under Section 10 (1) and 10 (4) of the Act 10% of the market value of the land has to be paid as compensation in addition to that damages caused to the trees, standing crops, severance of land or the earning of the land owner is also to be compensated.

4.In the aforesaid acquisition of the right of user the notification under Section 6 (1) was issued on 16.06.1999. Though the notification had described only an extent of 36sq.mtrs in survey No.8/2, however the respondents started using a larger extent of land over and above notified extent. The petitioner had therefore approached this Court by filing W.P.No.1138 of 2000 seeking a mandamus forbearing the respondents from interfering with his peaceful possession and enjoyment of the land comprised in survey No.8/2, Kangeyampalayam village, Palladam Taluk,



W.P.No.38435 of 2024

Coimbatore, except to the extent of 36 sqmts which have already been notified.

5.The respondents in their counter admitted that they were in need for additional 1007 sqmts in excess of the notified extent of 36 sqmts on account of the realignment of the route. The Writ Petition was allowed by an order dated 08.06.2000 wherein this Court had issued a mandamus forbearing the respondents from disturbing the petitioner's possession of the land in question to an extent of 36 sqmts. Taking into account the submission made by the respondents in their counter it was also observed that in the event of the respondents requiring the additional extent of property then the respondents have to take steps to notify the extent so required following the provisions of the Act. It was also left open to the petitioner to seek compensation for the damages caused to the standing crops. On such application being made the respondents were directed to dispose of the same expeditiously.

6.In compliance with the orders of this Court, the respondent had issued a fresh notification dated 22.07.2000 under Section 3 (1) of the



W.P.No.38435 of 2024

WEB COPY

Act to acquire additional 1971 sqmts (19.71 ares) in survey No.8/2, Kangayampalayam village. The petitioner had submitted her objections and she was called for an enquiry. Thereafter the objections were rejected and a declaration under Section (6) of the Act was published vide notification dated 23.09.2000. This was followed by a notice under Section 10 of the Act dated 21.04.2001 wherein the extent of land was mentioned as 10.07ares that is 10769 sqft which was contrary to the extent mentioned in the notification under Section 6 (1) of the Act dated 23.09.2000. A sum of Rs.18,433/- was mentioned as compensation. Challenging the notice dated 13.02.2001 in and by which the competent authority had informed the petitioner that 10% of the market value of the land would be paid as compensation, the petitioner had filed W.P.No.8044 of 2001 to quash the same. The notice was also challenged on account of the fact that in the impugned notice the respondent had mentioned that the land had been sub divided as 8/2B and extent of 10.07 ares alone was to be acquired. The respondents have exceeded their power in as much as once the declaration under Section 6 (1) of the Act had been notified, the competent authority does not have the power to change the extent of the land. Ultimately, the Writ Petition came to be disposed of on 06.02.2003 on the ground that the petitioner has not



W.P.No.38435 of 2024

challenged the gazette notification under Section (6) dated 23.09.2000.

WEB COPY The petitioner would further add that she was not paid for the land acquired for the right of user.

7.While so, the fifth respondent, BPCL had issued the impugned letter informing the petitioner that the respondents proposed to put another petroleum pipeline in the land where right of user was acquired in the year 2000. The pipeline which is proposed to be laid was for the Irugur - Devangonhi pipeline project. On further enquiry the petitioner came to learn that the second respondent had granted an authorization in favour of the fourth respondent vide order dated 26.02.2014 to lay the pipeline between these two places to transport the petroleum. The petitioner being aggrieved by this notification has approached this Court and the said notification has been challenged for the following reasons.

a)once a pipeline is laid, thereafter it is permissible to enter only for the reasons set out in Section 8 of the Act which are:- i. maintenance, ii. examination, iii. repair works, iv. altering, v. removing pipeline and vi.or for doing such other act as necessary for the utilization of the pipeline or for making of any inspection or measurement for the



W.P.No.38435 of 2024

aforesaid properties.

WEB COPY

b)these acts can be performed by the person authorized by the central government, state government or the corporation after giving due notice to the occupier of the land under which the pipeline is laid.

c)The impugned notice has been issued by the fifth respondent who is not the competent authority to issue notice under Section 7(1) (i) of the Act.

d)Once the provisions of Section 7 have been invoked it cannot be invoked once again. In the instant case, Section 7 had been invoked in April 2001 itself and the pipeline had been laid. Therefore, the fifth respondent cannot once again invoke the provisions of Section 7 of the Act.

e)The competent authority is not a judicial officer or a legally trained mind and therefore her appointment and the subsequent actions initiated by her cannot stand legal scrutiny.

f)Without prejudice to the above, as per G.O.M.S.No.54 dated 14.02.2020, the fourth respondent has to pay 20% of the market value of the land to the land owners if they go in for a second pipeline. In order to arrive at the market value of the land, the competent authority has to



W.P.No.38435 of 2024

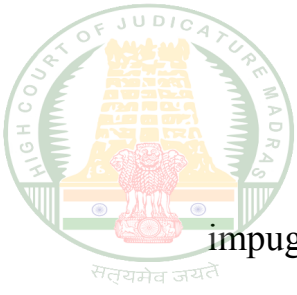
carryout the established exercise and pass award with reason and in the instant case, no such procedure has been adopted. Therefore, for these reasons, the petitioner has moved the above Writ Petition.

ii)W.P.No.36551 of 2024

8.W.P.No.36551 of 2024 is filed to quash the impugned publication of the fifth respondent issued in the Tamil daily “Daily Thanthi (Dhina Thanthi)” dated 24.11.2024 under Section 7 (1) of the Act. Petitioners are the owners of agricultural lands as set out below:-

<i>SI.No</i>	<i>Petitioner</i>	<i>Survey No/s</i>	<i>Village, Taluk, District</i>
1	N.Arumugam	14/1, 14/2A	Kodangipalayam, Palladam, Tiruppur
2	K.Natarajan	336/1, 339/3, 344/2C	Sukkampalayam, Palladam, Tiruppur
3	R.Subramaniyam	152/2B, 153/2	Palladam, Palladam, Tiruppur
4	M.Eswaramoorthy	416/1, 416/2A, 416/3	Naranapuram, Palladam, Tiruppur
5	M.Saraswathy	594/3A	Ganapathypalayam, Palladam, Tiruppur

9.Their lands were also originally acquired for the right of user in respect of the pipeline project called Petronet Cochin-Coimbatore-Karur, which was later acquired by the Bharat Petroleum Corporation Limited (herein after referred as BPCL). After having laid the first pipeline the



W.P.No.38435 of 2024

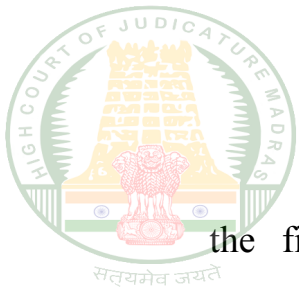
WEB COPY

impugned paper publication has been issued for laying the second pipeline in the very same property where right of user had been acquired by the respondents. Aggrieved over the same, the petitioners are before this Court. The petitioners herein have challenged the said notification on the ground that the notification under Section 3 (1) and 6 (1) of the Act have not been issued and straight away the Section 7 (1) notification has been issued.

10.By not issuing the notifications under Section 3 (1) and 6 (1) of the Act, the land owners have been denied right of hearing under Section 5 of the Act. This denial violates the principles of Audi Alteram Partem. The petitioners have not been put on notice earlier about the extension of the pipeline from Irugur to Devangonhi. The petitioners would further plead that the publication infringes right to property under Article 300 A of the Constitution of India which mandates that a person can be deprived of his property only through authority of law.

iii)W.P.No.35662 of 2024:-

11.W.P.No.35662 of 2024 is filed to quash the impugned notice of



W.P.No.38435 of 2024

the fifth respondent made in Na.Ka.No.14/2023-IDPL/Irugur dated 01.11.2023 under Section 7 (1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

12.It is the contention of the petitioner that he is the owner of the agricultural lands bearing S.No.712/2D, Irugur Village, Suler Taluk, Coimbatore District. In the year 1999, a pipeline project named “Petronet Cochin-Coimbatore-Karur by acquiring the right of user in extensive agricultural lands across Irugur village, Suler Taluk, Coimbatore District, had been conceived. During the implementation of the Petronet CCK Project, several assurances were given to the affected landowners such as compensation, alternative arrangements etc., However, those promises were never fulfilled. Then, BPCL had issued a notice in Na.Ka.No.14/2023-IDPL/Irugur dated 01.11.2023, intending to lay another pipeline through petitioner's agricultural lands. Aggrieved by the same, the petitioner is before this Court.

iv)W.P.No.39481 of 2024:-

13.W.P.No.39481 of 2024 is filed to quash the impugned order of



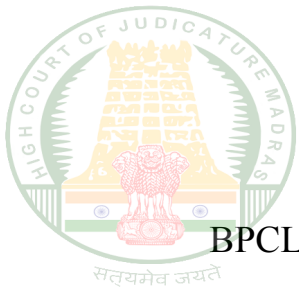
W.P.No.38435 of 2024

the fifth respondent in the proceedings bearing Na.Ka.No.14/2023/IDPL/Kodangipalayam and Kadambadi dated 13.3.2024 under section 7(1) (i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962.

14. It is the contention of the petitioner that he is the owner of the agricultural lands bearing S.Nos.194/1, 193, 195/2 & 277/2B in Kodangipalayam & Kadabadi Village, Tiruppur & Coimbatore District. It is submitted that in the year 1999, the Petronet Cochin-Coimbatore-Karur Project was implemented by Petronet India Limited, later acquired by BPCL. By not issuing the notifications under Section 3 (1) and 6 (1) of the Act, the land owners have been denied right of hearing under Section 5 of the Act. The petitioners have not been put on notice earlier about the expansion from Irugur to Devangonhi. The petitioners would further plead that the publication infringes right to property under Article 300 A of the Constitution of India which mandates that a person can be deprived of his property only through authority of law.

B. Counter of the respondents”:-

15. A counter affidavit has been filed by the fourth respondent,



W.P.No.38435 of 2024

BPCL in W.P.No.36551 of 2024 wherein it has been stated as follows:-

WEB COPY

The fourth respondent would counter the allegations contained in the affidavit filed in support of the Writ Petition by contending that the transportation of petroleum products through pipelines have proved to be the safest, most cost effective, environmental friendly and an efficient mean. The pipelines connect the refineries to meet the fuel needs of the various states in the country. The Mumbai refinery feeds the demand of Maharashtra, Madhya Pradesh, Rajasthan, Haryana, Delhi and Uttar Pradesh through the Mumbai – Manmad – Bijvasan pipeline spanning a total of 1332 kms and the Bina-kota pipeline runs through the states of Madhya Pradesh and Rajasthan. Cochin refinery is one such refinery. The Government had decided to run a pipeline from the Cochin to Karur through Coimbatore. These pipelines were laid to meet the needs of petroleum for the people in Tamil Nadu. The total length of the pipeline was 293 kilometers of which 155 passes through Kerala and 138 through Tamil Nadu. The respondent had followed the procedure contemplated under the Act for laying the aforesaid pipeline. The respondents had also permitted the petitioners to continue their agricultural activities after the initial pipeline installation and for 22 years the petitioners have been carrying on their agricultural activities except for planting deep rooted



W.P.No.38435 of 2024

WEB.COM

trees. The pipeline has been effectively operational for over 22 years and there has been no adverse effect from the same. The original project was implemented by the Petronet India Limited. Petronet India Limited subsequently became the subsidiary of BPCL and ultimately merged with the BPCL and the right of user of the lands automatically stood transfer to the fourth respondent.

16.The fourth respondent would submit that in order to augment the transportation of petroleum products from the Cochi refinery and extending it to other regions and the state of Karnataka the Irugur-Devanagathi project hereinafter referred to as “IDPL project” was conceived by the BPCL. This project is intrinsically linked to the Cochin-Coimbatore-Karur pipeline. IDPL project contemplates the execution of a pipeline running to an extent of 352 kms spanning districts in Tamil Nadu and two districts in Karnataka for the transportation of MS, HSD, Kerosene and Aviation fuel. The project runs from Irugur (Tamil Nadu) Depot of BPCL.

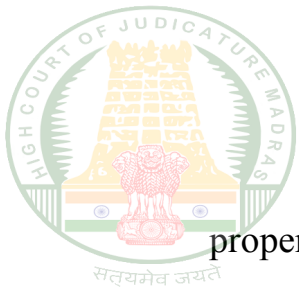
17.The fourth respondent would further submit for the installation of the IDPL project is in the very same parcel of land in respect of which the right of user has been acquired as being used and not an inch of



W.P.No.38435 of 2024

WEB.COM

additional land is being acquired. Compensation for the same was being offered to the petitioner at 20% of the land value plus damages to any standing crop which is specific to the state of Tamil Nadu. Therefore, the implementation of the second pipeline does not involve the acquisition of any additional land. The right of user having already been acquired and compensation paid, the petitioners cannot object to the laying of the second pipeline. The fourth respondent has already paid compensation not only for the right of user but also compensation for standing crop and they would once again pay for the damages that would be caused to the crops when the second pipeline is being laid. It is the further contention of the 4th respondent that there is no necessity to go through the entire exercise since it is the very same lands that are sought to be utilized for the instalment of the second pipeline. Therefore it is their contention that a notice under Section 7 (1) of the Act would suffice and would serve as an official intimation to the petitioners regarding commencement of the pipeline activity for IDPL project so as to enable the BPCL to enter upon the land. It is the further contention that the Central Government had vested the right of user on BPCL for the Cochin-Coimbatore-Karur pipeline project. Therefore, there is no necessity to initiate a separate acquisition proceeding for right of user as there is no change in the



W.P.No.38435 of 2024

property.

WEB COPY

18.It is further submitted that though BPCL does not acquire ownership of the land, however since they have acquired the right to use the land for the purpose of laying the pipeline for transportation of petroleum products, there is no necessity for BPCL to acquire fresh right of user for laying pipelines in the very same lands. The respondents have countered the allegations that the petitioners fundamental right to property under Article 300 (A) of the Constitution of India have stood violated by contending that having already accepted the vesting of rights of user with Petronet CCK as early as in the year 1999 itself and having accepted the compensation granted the petitioners cannot contend that their right have been violated. The fourth respondent would reiterate that both the 1999 project as well as the impugned project are intrinsically interconnected and therefore once the right of user has been acquired additional pipelines can be laid. Therefore, they sought for a dismissal of the Writ Petition in W.P. No.36551 of 2024.

19.Counter affidavit of the fourth respondent has been filed along with an application for vacating the stay granted wherein they have reiterated the contentions stated in the counter affidavit to W.P.No.36551



W.P.No.38435 of 2024

WEB COPY

of 2024. The respondent would contend that though the competent authority had issued a notice on 30.11.2024, calling upon the petitioner submit the details required for compensation distribution and the ownership details and the same has not been responded to by the petitioner. The compensation payable to the land owners including the .. petitioner under Section 10 of the Act had been determined after the issue of notice to the petitioner on 31.01.2024. The petitioner had failed to appear in person for the enquiry on 05.02.2024. Once again a notice was issued to the petitioner on 16.02.2024 for enquiry on 19.02.2024 for which also there was no response. Finally, the competent authority by communication dated 27.05.2024, had informed the petitioner that he may appear on 31.05.2024 and collect compensation as determined after producing the necessary bank account details. Despite all these notices, the petitioners refused to receive the compensation and therefore the same remain in deposit with the competent authority. They would further contend that the petitioners have chosen to approach this Court when the pipeline work is nearing completion by challenging the notice dated 01.11.2023. The fourth respondent would state that more than 100kms of the pipeline have already been laid and the completion of IDPL project is essential to meet the fuel needs of the States of Tamilnadu and Karnataka



W.P.No.38435 of 2024

with future expansion to other parts of Tamil Nadu. In fact the Government of Tamil Nadu had advised the project proponent namely BPCL to align the pipelines alongside the state of National Highways which was accepted by BPCL. The fourth respondent BPCL has ensured the minimum intrusion into day to day activities of the land owners. Therefore, they sought for the dismissal of the Writ Petition.

20. Before proceeding to discuss the issue on hand, it would be appropriate to touch upon the statement and objects of the Act and extract the provisions of Sections 3, 6, 7 and 10. This Act came to be enacted in the year 1962. The statement of objects and reasons would read as follows:-

As a result of the implementation of plans for the development of petroleum resources in the country, it is anticipated that in the next few years there will be a substantial increase in the production of crude oil, natural gas and petroleum products by the public sector oilfields and refineries in India. It has therefore become necessary to lay petroleum pipelines in the country to serve as an efficient and cheap means of transportation and distribution of petroleum and petroleum products.



WEB COPY



W.P.No.38435 of 2024

Although land can be acquired outright for laying such pipelines under the Land Acquisition Act, 1894, the procedure for such acquisition is long-drawn and costly. Since the petroleum pipelines will be laid underground outright acquisition of land is not necessary. Therefore, in the case of these pipelines it is considered sufficient to acquire the mere right of user in the land for laying and maintaining the pipelines. The Bill seeks to achieve the above purpose.

Section 3.Publication of notification for acquisition:-

Whenever it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum or any mineral from one locality to another locality, pipelines may be laid by that Government or by any State Government or a corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein.

2) Every notification under sub-section (1) shall give a brief description of the land.

3) The competent authority shall cause the substance of the notification to be published at such places and in such manner as may be prescribed.

Section 6.Declaration of acquisition of right of user-



WEB COPY



W.P.No.38435 of 2024

1. Where no objections under sub-section (1) of section 5 have been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be either make a report in respect of the land described in the notification under sub-section (1) of section 3, or make different reports in respect of different parcels of such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government and upon receipt of such report the Central Government shall if satisfied that such land is required for laying any pipeline for the transport of petroleum or any mineral, declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired. and different declarations may be made from time to time in respect of different parcels of the land described in the notification issued under sub-section (1) of section 3, irrespective of whether one report or different reports have been made by the competent authority under this section.

(2) On the publication of the declaration under sub-section (1), the right of user in the land specified therein shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been issued under sub-section (1) of section 3 but no



WEB COPY



W.P.No.38435 of 2024

declaration in respect of any parcel of land covered by that notification has been published under this section within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of that period

(3A) No declaration in respect of any land covered by a notification issued under sub-section (1) of section 3, published after the commencement of the Petroleum Pipelines (Acquisition of Right of User in Land) Amendment Act, 1977, shall be made after the expiry of three years from the date of such publication.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, on such terms and conditions as it may think fit to impose, direct by order in writing, that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, either on the date of publication of the declaration or, on such other date as may be specified in the direction, in the State Government or the corporation proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that State Government or corporation, as the case may be, free from all encumbrances.

7. Central Government or State Government or corporation to lay pipelines.—*(1) Where the right of user in any land has vested in the Central Government or in any State Government or corporation under section 6— (i) it shall be*



WEB COPY



W.P.No.38435 of 2024

lawful for any person authorised by the Central Government or such State Government or corporation as the case may be, and his servants and workmen to enter upon the land and lay pipelines or to do any other act necessary for the laying of pipelines: Provided that no pipeline shall be laid under— (a) any land which, immediately before the date of the notification under sub-section (1) of section 3, was used for residential purposes; (b) any land on which there stands any permanent structure which was in existence immediately before the said date; (c) any land which is appurtenant to a dwelling house; or (d) any land at a depth which is less than one metre from the surface; for laying pipelines for the transport of petroleum, it shall be lawful for any person authorised by the Central Government or such State Government or corporation to use such land for laying pipelines for transporting any mineral and where the right of user in any land has so vested for laying pipelines for transporting any mineral, it shall be lawful for such person to use such land for laying pipelines for transporting petroleum or any other mineral; and.

(ii) such land shall be used only for laying the pipelines and for maintaining, examining, repairing, altering or removing any such pipelines or for doing any other act necessary for any of the aforesaid purposes or for the utilisation of such pipelines. (2) If any dispute arises with regard to any matter referred to in paragraph (b) or paragraph (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.



WEB COPY



W.P.No.38435 of 2024

10. Compensation.—(1) *Where in the exercise of the powers conferred by section 4, section 7 or section 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.*

(2) *If the amount of compensation determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that District Judge.*

(3) *The competent authority or the District Judge while determining the compensation under sub-section (1) or sub-section (2), as the case may be, shall have due regard to the damage or loss sustained by any person interested in the land by reason of— (i) the removal of trees of standing crops, if any, on the land while exercising the power under section 4, section 7 or section 8; (ii) the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person; or (iii) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner: Provided that in determining the compensation no account shall be taken of any structure or other improvement made in*



WEB COPY



W.P.No.38435 of 2024

the land after the date of the notification under sub-section (1) of section 3.

(4) Where the right of user of any land has vested in the Central Government, the State Government or the corporation, the Central Government, the State Government or the corporation, as the case may be, shall, in addition to the compensation, if any, payable under sub-section (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent. of the market value of that land on the date of the notification under sub-section (1) of section 3.

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall, on application by either of the parties to the District Judge referred to in sub-section (2), be determined by that District Judge. (6) The decision of the District Judge under sub-section (2) or sub-section (5) shall be final.

21. Section 3 (1) contemplates the issue of notification first in the official gazette of the Central Government or the State Government or a Corporation declaring their intention to acquire right of user on lands for the purpose of transportation of petroleum or mineral from one locality to another locality through pipelines. Section 5 contemplates objections being filed by the persons interested in the land and its consideration by



W.P.No.38435 of 2024

WEB COPY

the authorities. Once the objections are made and rejected by the authority shall submit a report of recommendation in the objections received with a record of the proceedings for the decision of the Government. Thereafter, once the Government is satisfied that the land is required a notification under Section 6 (1) shall be published and thereafter as per the provision of Section 6 (2) the land would vest in the Government. Once the right of user is vested with the Government, then Section 7 provides that the persons authorised can enter the land for the purpose of laying the pipeline.

22. When the matter was being argued, this Court had directed the respondents to submit details showing the measurement of the pipelines and as to whether the second pipeline would exceeded the extent for which right of user has been acquired. A sketch was provided to this Court showing the extent of Right of User (herein after referred as ROU) and measurement of the pipelines. A perusal of the same would clearly indicate that the second pipeline is also well within the land in respect of which ROU has already been acquired. It is also brought to the notice of the Court by the learned counsel for the respondent that the Tamil Nadu



W.P.No.38435 of 2024

Government has passed a G.O. for payment of 20% as damages for the loss caused while laying a pipeline. The respondents have produced a copy of the environmental impact notification dated 14.09.2024 with reference to Irugur – Devangonhi pipeline. In paragraph No.1.1.2 of the report it has been stated as follows:-

The proposed IDPL's cross country pipeline originates from Irugur, Coimbatore district of Tamil Nadu, which is a despatch Terminal and the pipeline route passes through the space between existing Kochi-Coimbatore-Bangalore pipeline corridor of Petronet and Coimbatore-Salem BG track along the catchment of Noyal River while proceeding towards Bangalore. The proposed pipeline ends at Devangonhi BPCL's receipt terminal at Bengaluru. The length of the pipeline is expected to be about 355 km 16" Dia API 5L grade cross country pipeline for the movement of MS/SKO/HSD/ATF. The details of the pipeline crossings are briefly described below.

23.The report also refers to the need and justification for the laying of the pipeline as the consumption of the petroleum products in India is on a steady rise and therefore, the Government had decided to proceed



W.P.No.38435 of 2024

WEB COPY

with the laying of the second pipeline to extend the facility right upto Devangonthi in Karnataka. Further on a perusal of the notice issued under Section 7 (1) of the Act dated 01.11.2023, there is a reference to Section 3 (1) notices bearing No.386 dated 06.02.1999, 2156 dated 27.07.1999 and 1633 dated 21.07.2000. Likewise it also refers to Section 6 (1) notifications bearing No.1825 dated 16.06.1999, No.3178 dated 04.11.1999 and No.2084 dated 18.09.2000. Therefore, it appears that a 3 (1) notification had been issued on 19.08.2004 followed by a 6 (1) on 26.03.2003. Thereafter, compensation has also been worked out. The reference would also show that the petitioner in W.P.No.36551 of 2024 has sent a letter dated 08.04.2024 claiming compensation for the crops planted by him as well.

C.Submission:-

24.The learned counsel appearing for the petitioner in W.P.No.36551 of 2024 and W.P.No.35662 of 2024 would at the outset submit that the impugned publication under Section 7 (1) of the Act is contrary to the provisions of the Act as the said notice has not been preceded by the notices under Section 3 (1) and 6 (1) notifications. The



W.P.No.38435 of 2024

WEB COPY

learned counsel would submit that the project of the year 1999 and the project of the year 2000 are two distinct projects. He would invite the attention of this Court to the notification of the 1999 Act, wherein it has been stated that the purpose for which the ROU land was acquired was for laying a pipeline from the refinery of the BPCL Kochi, Kerala, Karur in the State of Tamil Nadu and the pipeline was to be laid by the Petronet CCK project, whereas, the Section 6 (1) of the year 2014 is for laying a pipeline from Irugur to Devangonhi. He would further emphasise that a mere perusal of the notification would clearly prove that it is a different project since it contemplates a parallel pipeline. Therefore, it is his contention that the authorities ought to have initiated proceedings from the beginning for acquiring the ROU. He would further submit that the respondents have themselves admitted that it is a parallel pipeline. In the counter affidavit filed by them the said statement has been admitted in paragraph No.3 (d, f and g). He would further submit that in both notifications respondents have clearly stated that it was only “a pipeline” that was being laid whereas now by virtue of the impugned notification, it is a second pipeline that is sought to be laid. He would submit that the respondents are trying to circumvent procedure and deprive the petitioners of their livelihood and compensation.



W.P.No.38435 of 2024

WEB COPY

25.Mr.D.Muthukumar, the learned counsel appearing on behalf of writ petitioner in W.P.No.38435 of 2024 would submit that in the case of the petitioner, originally the respondents had sought to acquire only an extent of 36 sqmts which was challenged in the proceedings in W.P.No.1138 of 2000. This Writ Petition was filed for issue of writ of mandamus to restrain the respondents their men representatives etc., from disturbing the petitioner's peaceful possession of the land in S.No.8/2, Kangeyampalayam Village, Coimbatore, except the extent of 36 sqmts. The petitioner therein had stated that though notification was issued for acquiring 36sqmts however, an additional extent of 1007 sqmts was acquired from the petitioner's land on account of re-alignment. The said lands were acquired without following due process of law and therefore, the petitioner had come forward with the Writ Petition. This Court by the said order dated 08.06.2000 had allowed the Writ Petition and the respondent were restrained from acquiring 36 sqmts except by due process of law. The learned Judge had also observed that it would be open to the respondents to notify the extent of property that they propose to acquire in the said survey number. He would submit that thereafter fresh notification was issued and larger extent was acquired.

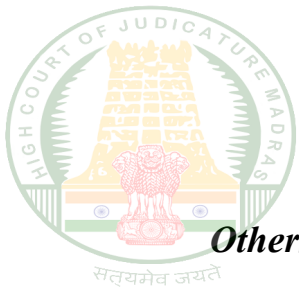


W.P.No.38435 of 2024

WEB COPY

He would also support the arguments of the learned counsel for the petitioner in W.P.No.36551 of 2024 and W.P.No.35662 of 2024 by contending that the two projects are totally different and not intrinsically linked as contended in the counter filed by the respondent. He would place reliance on a judgment of the Hon'ble Supreme Court reported in ***1997 2 Supreme Court Cases 42 Ichchapur Industrial Cooperative Society Ltd., Vs. Competent Authority, Oil & Natural Gas Commission and Another*** , at paragraph No.2 where the issue involved in the case had been encapsulated and paragraph Nos.7, 12, 14 and 15, where the provisions of the Act has been extracted. He would submit that therefore impliedly it has to be taken that, only when the second pipeline is sought to be laid in additional land over and above to the lands in respect of which right to user has been acquired, then in such cases it should be treated as a fresh acquisition. Therefore, if a second pipeline is to be laid in the very same extent which has already been acquired it would not amount to a fresh acquisition.

26.The learned counsel would rely upon the judgments reported in ***(2016) 9 Supreme Court Cases 791 Laljibhai Kadvabhai Savaliya and***



W.P.No.38435 of 2024

Others Vs. State of Gujarat and Others, was pressed into service to

contend that a competent authority should be a person with a judicial background and should be a judicial officer not lower than the rank of a Subordinate Judge. Both counsels would submit that twenty years back, the earlier acquisition had come to an end and the pipeline have been installed. The present project is a totally different project and not linked to the earlier project. The counsels would therefore, seek to have the Writ Petition allowed and the impugned order set aside.

27.Per contra, the learned Assistant Solicitor General would submit that the respondents had acquired a ROU for laying pipelines in the land so acquired. He would further draw the attention of the Court to the provisions under the Act where the pipeline that is contemplated is not in the singular but in the plural namely it talks about pipelines. He would submit that a reading of Sections 3, 4 and 5 would clearly demonstrate the above as the emphasis is on the word such “pipelines”. He would submit that Hon'ble Supreme Court in the case of ***Ichchapur Industrial Cooperative Society Ltd., Vs. Competent Authority, Oil & Natural Gas Commission and Another*** had clearly understood the



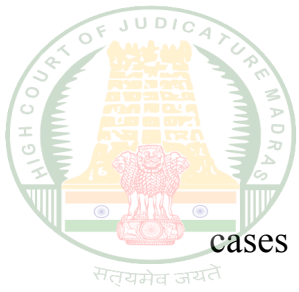
W.P.No.38435 of 2024

above fact and had permitted the laying of the additional pipeline.

WEB.COM

Though in that case, it was for carrying water he would submit that the said judgment has been relied upon in division bench of Punjab and Haryana High Court in the judgment reported in **2010 (1) ILR Punjab and Haryana 868 Surat Singh and others Vs. Union of India and others and by division bench of Andhra Pradesh namely 2021 SCC Online AP 3442 Banavath Sudhakar Naik Vs. Hindustan Petroleum Corporation Ltd.** He would therefore submit that having acquired right to lay the pipelines as per the notification under Section 3 (1) followed by 6 (1) and 7 (1) it does not lie in the mouth of the petitioner to now contend that the respondents cannot lay another pipeline.

28.Mr.Krishna Srinivasan, learned Senior Counsel appearing for the 4th and 5th respondents would add to the aforesaid arguments and submit that even after laying of the additional pipeline there would still be land available within the area which has been already acquired for ROU. The sketch produced would substantiate the above argument. He would further argue that the laying of the second pipeline is not a new project and is one that is linked with the earlier project. In both these



W.P.No.38435 of 2024

cases petroleum is sought to be taken from Cochin refinery of the fourth respondent through Coimbatore right upto Karnataka. The project report that has been filed in the additional typed set of papers has also been referred to by the learned Senior Counsel. He would submit that since it forms part of the earlier notification and that as no additional lands are sought to be acquired the Section 7 (1) notice cannot be called into question. That apart, he would submit that the petitioner has received compensation for the entire extent that is now been acquired for ROU. The petitioners are further entitled to 20% of the land cost as damages in case of any damage to the crops. Therefore, he would also seek for the dismissal of the Writ Petitions.

Discussions:-

29.From the reading of Section 3 (1) it appears that the notification under Section 3 (1) is a declaration of intent to acquire a ROU of any land for the purpose of laying pipelines. The plural is used. Section 4 deals with the power to enter survey etc. Likewise the declaration under Section 6 (1) also talks about pipelines. The Hon'ble Supreme Court in *1997 2 Supreme Court Cases 42 Ichchapur Industrial Cooperative Society Ltd., Vs. Competent Authority, Oil & Natural Gas Commission*



and Another, was dealing with an issue as to whether water is a mineral within the meaning of mines Act, while considering objections since the respondent ONGC had decided to lay a second pipeline along side the earlier pipeline for taking water. After hearing the extensive argument, it observed that the question being canvassed before them was whether a new pipeline carrying another commodity could be laid without a fresh notification under Section 3 followed by a declaration under Section 6.

Paragraph No.15 of the said judgment state as follows:-

*15.A perusal of the above would indicate that if the right of user of the land has vested in the Government for laying pipelines for transporting petroleum, it shall be lawful to lay pipelines for transporting minerals. It also provides that where the right of user of a land has vested in the Government for laying pipelines for transporting any mineral, **it would be lawful to lay pipelines for transporting petroleum or any other mineral including the mineral for the transportation of which the right of user had already vested. The two rights, namely, the right to lay pipeline for petroleum and the right to lay pipeline for minerals have been linked together. If one is acquired, the other also becomes available.***



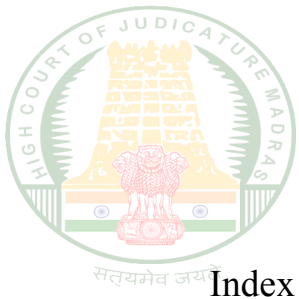
W.P.No.38435 of 2024

WEB COPY

30.The above judgement would clearly indicate that when a second pipeline is permitted to carry another product the laying of the pipeline for transporting the very same product cannot be given a different treatment. The division bench of the Punjab and Haryana HighCourt have followed the judgment in ***Ichchapur Industrial Cooperative Society Ltd., Vs. Competent Authority, Oil & Natural Gas Commission and Another***, and held that the ROU that vests with the Corporation they could lay another pipeline as stated earlier. The sketch which has now been submitted by the respondents which forms part of this order clearly shows that both the pipelines come still within the lands which have been in respect of which ROU has been acquired. Therefore, the Writ Petitions stands dismissed.

31.Accordingly, the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

21.12.2024



W.P.No.38435 of 2024

WEB COPY

Index : Yes/No

Internet : Yes/No

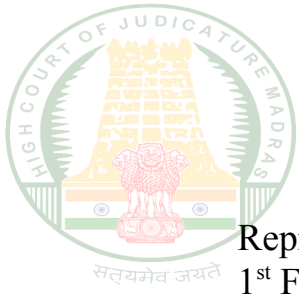
Speaking Order/Non Speaking Order
ep

To

1.The Union of India,

Represented by its Secretary to Government,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan, New Delhi – 110 001.

2.Petroleum and Natural Gas Regulatory Board (PNGRB)



W.P.No.38435 of 2024

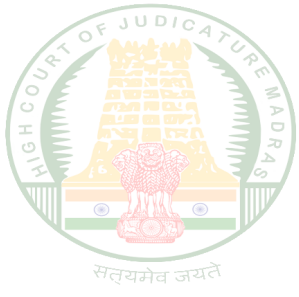
WEB COPY

Represented by its Chairperson,
1st Floor, World Trade Center,
Babar Road, Barakhamba,
New Delhi – 110 001.

- 3.The District Collector,
Office of the District,
Tiruppur District.
- 4.The District Collector,
Office of the District,
Coimbatore District, Coimbatore.
- 5.The Project Manager,
Irugur- Devangonhi Pipeline Project – Project Office,
Bharat Petroleum Corporation Limited,
Irugur, Coimbatore.
- 6.The Authorized Officer/Competent Authority,
Irugur-Devangonhi Pipeline Project,
Bharat Petroleum Corporation Limited,
Ravathur, Irugur, Coimbatore.

P.T.ASHA, J.

ep



WEB COPY



W.P.No.38435 of 2024

W.P.Nos.38435, 36551, 35662 & 39481 of 2024
W.M.P.Nos.41632, 41633, 39401,
39402, 39403, 38517, 38519
42743 & 42744 of 2024

21.12.2024