



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

108+248

**CM-10944-CWP-2024 in/and
CWP-7449-2024 (O&M) and
CWP-7458-2024**

Date of Decision: 19.07.2024

GSPL INDIA GASNET LTD. AND ANOTHER

..... Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Bipin Ghai, Sr. Advocate with
Ms. Anupam Bhanot, Advocate and
Mr. Nikhil Ghai, Advocate for the
petitioners in both cases.

Ms. Akshita Chauhan, DAG, Punjab
for respondents No.1 to 6.

VINOD S. BHARDWAJ, J. (ORAL)

CM-10944-CWP-2024

For the reasons mentioned in the application, the same is
allowed as prayed for subject to all just exceptions.

The letter/order dated 27.06.2024 (Annexure P-13) issued by
District Magistrate, Bathinda is ordered to be taken on record. Registry is
directed to tag the same at appropriate place of the paper book and page mark
the same.

MAIN CASES

The grievance of the petitioners in both these inter-related
petitions is in relation to an impediment being caused by the protestors at



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-2-

Bathinda in the work of laying of the pipeline for the transportation of natural gas, despite the project being undertaken with all statutory compliances and under an authority given by the Ministry of Petroleum & Natural Gas, Government of India vide S.O. No. 89 (E) dated 04.01.2017 in District Bathinda, Punjab. Despite repeated and multiple requests at all levels, the administration has failed to take any step leading to the filing of the present petition.

2. Learned Senior Counsel for the petitioner has argued that the Central Govt. issued notification dated 04.01.2017, in public interest, for transportation of Natural Gas from Mehsana to Bathinda. The Central Govt. declared its intention to acquire the user right on the land under Section 3 (1) of the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Act, 1962 (here-in-after referred to as Act of 1962) . The development of gas infrastructure in the State would have fuelled industrialization due to easy availability of Gas and lead to establishment and growth of industry. The same would boost overall economy and generate employment opportunities for the youth of State. The petitioner has been authorized by the Petroleum and Natural Gas Regulatory Board to develop the pipeline over 940 kms on which more than 98% work in other States and Districts has already been completed. Only about 1200 meters of Pipeline is left in District Bathinda.



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-3-

3. It is also submitted that the compensation, in line with the methodology adopted by the Public Sector Undertaking for the pipeline, as advised by the Deputy Commissioner, Bathinda was assessed @40% of Rs. 60 lakhs per acre against 20% of the prevailing rate of Rs. 20 lakhs per acre under the Act of 1962. It is informed that the protestors are seeking an exorbitant demand of Rs. 1 Crores per acre, without any valid ground and notwithstanding that only a “right of user” has been acquired and there is no acquisition of the land. The same can be used for all agricultural purposes. Undesirable demand of compensation by the protestors has an adverse impact on project viability. In any case, if any land owner is not satisfied with the compensation, he has the remedy to seek enhancement of the same from the Court i.e. District Judge. No such petition for enhancement has been filed by the landowners. In any case, even if such a petition is filed, the petitioner company shall be bound to pay such compensation but the project of laying of the pipeline cannot be stalled till demands are met. Section 15 of the Act of 1962 prescribes penalty for those who violates obstruct in the execution of sanctioned projects. Despite numerous representations, the Police failed to ensure protection to the staff and workers of the petitioner executing the work. The District Magistrate also appointed a Duty Magistrate on the report of the Sub Divisional Magistrate and Senior Superintendent of Police has been directed to provide necessary Police force, but the Senior



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-4-

Superintendent of Police has preferred to suppress the order and not implement the same.

4. Notice was issued and served upon the State on 02.04.2024. Considering the gravity of the situation and the project being of National eminence and being stalled, the matter was posted for 02.05.2024 to enable filing of reply and to apprise appropriate steps taken. The case was thereafter adjourned to 24.05.2024 as the same could not be taken up. On the above date, State sought some more time and the matter was adjourned to 19.07.2024.

5. A short reply has been filed on behalf of respondents No.1, 5 and 6, in compliance to the order of 02.04.2024. Even though service on private respondents had not been effected, learned Senior Counsel submitted that he does not insist on taking any penal action on the private respondent and is only pressing that the Police must act as per law and protect the lawful activity being undertaken by the Company (after obtaining all requisite statutory permissions, sanctions and clearances) especially when the civil administration has appointed Duty Magistrate. The company is not in default of any statutory obligation and the project has already been stalled for nearly 04 years. The machinery, staff and material of the Company is all held helpless and captive and thus causing inordinate delay in completion of the project.



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-5-

6. Since no action against private respondents was being pressed, hence, the necessity of service on the said respondent is dispensed with and the case was heard on merits due to the pressing urgency.

7. Replies on behalf of respondents No.1, 5 and 6 in both the cases have been furnished to learned Counsel for the petitioner.

8. Relevant extract of the affidavit reads thus:-

3. That in compliance of order dated 02.04.2024 passed by this Hon'ble High Court, it is respectfully submitted that an inquiry has been conducted by Inspector Harjit Singh, SHO, Police Station Talwandi Sabo on the application submitted by Anupam Bhanot, Authorized officer of GSPL, India Gas Net Limited dated 23.03.2024 received through registered post submitted to Senior Superintendent of Police, Bathinda vide receipt no. 782589174 dated 26.03.2024 with the allegations that the volunteers of Kissan Union had teased the employees of the complainant company during the work of laying down the gas pipe line.

4. That Sub Divisional Magistrate, Talwandi Sabo also submitted letter bearing no.01/Spl/FK dated 19.02.2024 with the direction to get release the officials of GSPL India Gas Net Limited as the officials have been detained by the volunteers of Kissan Union (Ugrahan Group).

5. That on receipt of the letter of Sub Divisional Magistrate, Talwandi Sabo by the deponent, the said application was further marked to SHO, Police Station Talwandi Sabo. Inspector Harjit Singh, the men SHO, Police Station Talwandi Sabo reached at the spot and discussed the entire circumstances with the senior officers. At the same time the volunteers of



CWP-7449-2024 (O&M) and
CWP-7458-2024

-6-

Kissan Union Ugrahan Group staged a Dharna in front of the office of Sub Divisional Magistrate, Talwandi Sabo. With the intervention of Sub Divisional Magistrate, Talwandi Sabo, SHO, Police Station Talwandi Sabo and others officers, the meeting was got affixed between the officials of GSPL, India Gas Net Limited and the volunteers of Kissan Union Ugrahan Group, so the Dharna was lifted by the volunteers of Kissan Union.

6. That Inspector Harjit Singh, SHO, Police Station Talwandi Sabo prepared his report no. 754/5A/PS Talwandi Sabo dated 25.03.2024 and the same was submitted to the deponent. The said report was further sent to the office of Senior Superintendent of Police, Bathinda by the deponent vide letter no. 720/5A dated 25.03.2024.

7. That the said report was marked to the deponent by Senior Superintendent of Police, Bathinda for comments. Thereafter, the letter no. 01/SPL/FK dated 19.02.2024 was again sent to SHO, Police Station Talwandi Sabo to submit the detailed and speaking report vide letter no. 951/5A/DSP/T Sabo dated 27.04.2024 by the deponent.

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9. That from the inquiry, it is found that the employees of GSPL, India Gas Net Limited were not illegally detained or confined in the office of Sub Divisional Magistrate, Talwandi Sabo by the volunteers of Kissan Union (Ugrahan Group). The office work of Sub Divisional Magistrate, Talwandi Sabo was not interrupted on that day.

10. That on completion the inquiry, SHO, Police Station Talwandi Sabo submitted his detailed inquiry report no. 4006/5A PS T.Sabo dated 06.06.2024 to the deponent.

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**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-7-

12. That on the basis of the inquiry conducted by Inspector Harjit Singh, the then SHO, Police Station Talwandi Sabo, no action has been taken because no cognizable offence has been reported to be committed by the volunteers of Kissan Union, so the application submitted on behalf of petitioner company has been filed.

9. Counsel for the petitioner chose not to file replication and made a statement to that effect.

10. Counsel for the parties were hence heard at length.

ARGUMENT OF PETITIONER

11. Learned Senior Counsel for the petitioner has reiterated the factual aspects recorded above and emphasizes on the importance of the pipeline for the region as well as the nation and about the work not being permitted to be carried out, despite all statutory compliances. He makes a specific reference to the representation dated 01.01.2020 as well as 04.08.2020 to the Tehsildar-cum-Duty Magistrate, Talwandi Sabo, District Bathinda; request dated 01.07.2022 to the Ministry of Petroleum and Natural Gas for directing the State and District Administration to extend support in Bathinda; The letter dated 18.07.2022 by the Chief Secretary, Gujarat to Chief Secretary, Punjab for extending administrative support. Reference is also made to the letter dated 09.11.2022 sent by the Additional Deputy Commissioner, Bathinda to the Senior Superintendent of Police, Bathinda to provide police help. Referring to the above, he argues that notwithstanding the same, the Senior Superintendent of Police, Bathinda failed to do the



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-8-

needful due to which mails were sent to the Director General of Police, Punjab, on 23.12.2022. The same was forwarded to the Senior Superintendent of Police and an acknowledgment mail was also sent but yet no effective steps were taken. A detailed representation was sent yet again on 22.03.2024. The writ petition was finally filed since the respondent Senior Superintendent of Police, Bathinda has failed to rise to the call of duty and discharge his obligation. He submits that the respondent-Police authorities have chosen to remain evasive and non-committal about their duties despite non-denial of the averments contained in the petition and the annexures appended thereto. All the aspects have been conveniently avoided and not responded to in the reply and the same has been confined only to the steps being taken to negotiate a settlement with the protestors. No explanation has been given as to why the grievance raised by the petitioner has not been redressed despite the petitioner pursuing it for last four years not only at its own level but also at the level of the Governments.

ARGUMENTS BY THE RESPONDENTS

12. Counsel for the respondent-State has vehemently argued that the State has been taking all effective measures for smooth execution of the work and taking steps to amicably resolve the dispute. She has referred to the averments extracted from the affidavit and has argued that the complaints about the staff of the petitioner being wrongfully confined have already been



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-9-

inquired into and no action was called for against the protestors since occurrence of the alleged incident could not be proved.

13. It has further been argued by her that there are certain demands of the farmers for compensation that are pending and that steps are being taken to resolve the same through mutual negotiations. A large number of meetings amongst the representatives of the Administration, Company and Protestors have already been held to resolve the issue amicably and to avoid any untoward incident which may give rise to a law and order problem. It cannot thus be said that effective steps have not been taken by the Police. All necessary and appropriate steps have been taken and a substantial length of pipeline has already been got laid. She emphasizes that there is no lapse or failure on the part of the State in taking adequate steps and the project has got delayed due to mounting pressure of the protestors.

14. No other argument has been advanced by either of the parties, nor any judgment has been cited.

15. I have heard learned Counsel for the parties and have gone through the documents available on record.

16. Before proceeding further into the matter, it is necessary to refer to certain relevant provision of the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Act, 1962. The same are extracted as under:-

3. Publication of notification for acquisition.—(1)

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.

4. Power to enter, survey, etc.—*On the issue of a notification under sub-section (1) of section 3, it shall be lawful for any person authorized by the Central Government or by the State Government or the corporation which proposes to lay pipelines [or any mineral], and his servants and workmen.*

(a) to enter upon and survey and take levels of any land specified in the notification;

(b) to dig or bore into the sub-soil;

(c) to set out the intended line of work;

(d) to mark such levels, boundaries and line by placing marks and cutting trenches;

(e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and

(f) to do all other acts necessary to ascertain whether pipelines can be laid under the land:



CWP-7449-2024 (O&M) and
CWP-7458-2024

-11-

Provided that where exercising any power under this section, such person or any servant or workmen of such person shall cause as little damage or injury as possible to such land.

5. Hearing of Objections.—*(1) Any person interested in the land may, within twenty-one days from the date of the notification under sub-section (1) of section 3, object to the laying of the pipelines under the land.*

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.

(3) Any order made by the competent authority under sub-section (2) shall be final.

6. Declaration of acquisition of right of user.—*(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 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



CWP-7449-2024 (O&M) and
CWP-7458-2024

-13-

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 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.]



CWP-7449-2024 (O&M) and
CWP-7458-2024

-14-

(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.

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9. Restrictions regarding the use of land.—*(1) The owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-section (1) of section 3: Provided that, such owner or occupier shall not after the declaration under sub-section (1) of section 6—*

(i) construct any building or any other structure;

(ii) construct or excavate any tank, well, reservoir or dam; or

(iii) plant any tree, on that land.

(2) The owner or occupier of the land under which any pipelines has been laid shall not do any act or permit any act to be done which will or is likely to cause any damage in any manner whatsoever to the pipeline.

Where the owner or occupier of the land with respect to which a declaration has been made under sub-section (1) of section 6,—

(a) constructs any building or any other structure, or

(b) constructs or excavates any well, tank, reservoir or dam, or



CWP-7449-2024 (O&M) and
CWP-7458-2024

-15-

(c) plants any tree,

on that land, the Court of the District Judge within the local limits of whose jurisdiction such land is situate may, on an application made to it by the competent authority and after holding such inquiry as it may deem fit, cause the building, structure, reservoir, dam or tree to be removed or the well or tank to be filled up, and the costs of such removal or filling up shall be recoverable from such owner or occupier in the same manner as if the order for the recovery of such costs were a decree made by that Court.]

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—



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-16-

(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 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.

11. Deposit and payment of compensation.—*(1) 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.

(3) As soon as may be after the compensation has been deposited under sub-section (1) the competent authority shall, on behalf of the Central Government the State Government or the corporation, as the case may be, pay the compensation to the persons entitled thereto.

(4) Where several persons claim to be interested in the amount of compensation deposited under sub-section (1), the competent authority shall determined the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them.

(5) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereon is payable, the competent authority shall refer the dispute to the decision of the District Judge within the limits of whose jurisdiction the land or any part thereof is



CWP-7449-2024 (O&M) and
CWP-7458-2024

-18-

situated and the decision of the District Judge thereon shall be final.

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15. Penalty.—*(1) Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 7 or section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4 or wilfully does any act prohibited under section 9, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.*

(2) Whoever wilfully makes or causes to make any unauthorised connection with or removes, destroys, damages or displaces any pipeline laid under section 7, or wilfully inserts any device to extract petroleum product or minerals from such pipeline, or wilfully disrupts supplies being made through the pipeline, shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

(3) If any person convicted of an offence under subsection (2) is again convicted of an offence under the same provision, he shall be punishable with rigorous imprisonment for the second and for every subsequent offence for a term which shall not be less than three years but which may extend to ten years:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three years.

(4) Whoever, with the intent to cause or knowing that he is likely to cause damage to or destruction of any pipeline laid under section 7, causes by fire, explosive substance or otherwise



damage to the pipeline being used for transportation of petroleum products, crude oil or gas with the intent to commit sabotage or with the knowledge that such act is so imminently dangerous that it may in all probability cause death of any person or such bodily injury likely to cause death of any person, shall be punishable with rigorous imprisonment which shall not be less than ten years but may extend to imprisonment for life or death.

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16C. Provisions as to bail.—(1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no person accused of an offence punishable under sub-section (4) of section 15 shall, if in custody, be released on bail or on his own bond unless—*

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974).



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-20-

17. The statutory provisions clearly establish that once the final declaration of intent to lay pipeline for transportation of gas etc. is done, the right of user can be enforced by the entity, free from all encumbrances. Section 7 of the Act of 1962 authorizes the servants/workmen to enter upon the land and to do acts that are necessary for laying of the pipeline. The aspect of compensation is provided for under Section 10 of the Act of 1962 and confers a remedy of appeal to the District Judge. The statute initially provided for 10% of the market value of the land as on the date of notification, (enhanced to 20% of the market value). Section 11 provides for deposit and payment of compensation while Section 15 provides for penalty in case of obstruction in doing of an authorized act. The provision for bail under Section 16 C of the Act of 1962 has also been made stringent.

18. It is in the above statutory background that the facts of the case become significant. It is evident from the documents appended with the petition that first letter was sent by the Director of the petitioner on 03.06.2019. It was informed specifically that Gazette Notification dated 23.08.2016 was issued appointing competent authority for acquisition of Right of User in the State of Punjab. It was conveyed then in June, 2019 that 440 km Pipeline had been commissioned through various cities. Communication for requesting police help was sent to the Deputy Commissioner in December, 2019. The total area of approximately 96 kms was to be laid through 38 villages. The problem has not been resolved since



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-21-

then and still 1200 meters is yet to be done after 4 ½ years of consistent efforts.

19. It is evident from a perusal of the above that the petitioner-GSPL has been in the process of completion of the Gas Pipeline in District Bathinda since 2019 and has been highlighting the issue of obstruction being caused by the farmers in different villages. The correspondence attached with the present petition has not been denied by the Police and rather, the representations have been acknowledged by the Office of the Senior Superintendent of Police, Bathinda. Besides, the Additional Deputy Commissioner as well as the District Magistrate have also appointed the Duty Magistrates for ensuring smooth execution of the work and directed the Senior Superintendent of Police, Bathinda to provide Police force. Instead of pointing out the reasons as to why the necessary Police help could not be provided for, the response is only that they have inquired into the aspect of alleged obstruction being caused by the villagers and the employees of the petitioner being held captive. Even though the respondent denies occurrence of the event, however, the report appended alongwith the affidavit shows that the grievance espoused by the petitioner has a semblance of truth. The Police, however, claims to have taken steps to convince the parties into arrival at a mutual settlement so that the work can be executed. Even though the said approach may not be held to be *per se* bad, when viewed as a standalone attempt, however, the larger question which is a concern to this Court is as to



CWP-7449-2024 (O&M) and
CWP-7458-2024

-22-

whether the entire handling of the position by the District Police has been apt or not. Besides, whether a projection or apprehension of protests is sufficient cause unto itself to allow vital infrastructure projects to come up at the convenience of the protestors. No doubt that a person aggrieved has a right to stage protest or to assemble peacefully but such right cannot hold rights of every other person or entity as hostage. The Hon'ble Supreme Court has held about the rights and the corresponding duties of the protestors in the matter of ***“Beenu Rawat and others versus Union of India and others”*** reported as ***(2013) 16 SCC 430*** . The relevant extract of the same reads thus:-

*“14. In Part III of the Constitution of India Article 21 enjoys special status. Right to life and right to liberty are of historical importance. Rise of modern democratic State is attributable to a long-drawn battle waged by ordinary people against the sovereign power. The law is now well settled that the State or its functionaries cannot deprive any person of his life which includes the right to live with human dignity except in accordance with law. The maximum threat to such fundamental right is perceptible when any kind of protest or agitation is directed against the police force for reasons which are self-evident. Police is licenced to carry arms for protecting the people. This itself creates a situation where the power of arms may be misused under the mistaken belief in the absolutism of the police power or on account of lack of sensitivity to the democratic rights of the people to register peaceful protest, against wrongs, especially that of public functionaries. **The submissions on behalf of the respondents that nobody can be permitted to paralyse the functioning of police or other State***



institutions in a name of public protest cannot be rejected off hand because it is only a corollary of the right to protest peacefully: proverbially the other side of the coin which corroborates the well-accepted principle that rights without duties tend to degenerate into licence for misuse of rights. In a given case, the facts may lead to such conclusions. Hence facts and circumstances in such cases need to be scrutinized carefully.”

20. Hence, a balance has always been drawn between the right to protest but being compliant of the law and regulations and adherence to the legal boundaries. The right is subject to limitations to ensure public order, safety and protection of rights of others. There has to be a minimization of disruption to free movement of public as well as damage to public property. Even though conservative understanding of “damage to public property” is understood in the context of causing harm or destruction of public property, however, the concept of “damage” and “property” need to be understood and accepted in a broader meaning. Non allowing execution of a project cost over-runs may also fall in an act of damage more so when “right of user” has been lawfully vested.

21. Law recognizes every tangible and non-tangible right as a property. The said definition and meaning thus needs to be understood and respected.

22. The protestors do not dispute that the act of petitioners is illegal or in violation of law but claim for higher compensation, which such



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-24-

compensation is claimed by the petitioners to be twice the percentage prescribed in law. In any case, a statutory remedy of appeal is provided for in the statute. Redressal of such a grievance is to be addressed to the competent authority. Seemingly, the lack of state action has resulted in vesting of the power of determining compensation, with the Police, under the heightened claim of law and order problem. While social justice is the guiding force behind Rule of Law, its foundation on public order is an essential pre-requisite. An alleged demand for a perceived oppression and denial of social justice cannot be used as a facade to hold public order to ransom.

23. The vicious trap which comes in existence as to whether the action of the Police is likely to lead to protests and law and order problem or as it is because of the Police inaction that the Organizer/protestors have assumed be confident of wrestling events as well as administration to their side and thereafter to raise demands which may be unsustainable. Besides, it may lead to other possibility(ies) about mischievous element throwing up illegal and unreasonable demand, raised as a front, so as to make clandestine settlement for himself/themselves. In either of the said circumstances the inaction on the part of the law enforcement leads to a casualty of the rule of law.

24. While the primary job of the Police is law enforcement, smooth running of the administration has been assigned to the civil administration.



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-25-

Despite the delineation of the functions, the Police as the law enforcement agency has taken upon itself to ignore the dictate of the civil administration

25. Even though respondent Police has filed its reply highlighting the alleged law and order problems but has failed to give details of the steps taken by them for settlement or about how it tends to resolve the same. No satisfactory explanation has been put forth as to why despite more than four years of the petitioner-Company approaching the authorities of one single District of Punjab to provide Police assistance, the work of laying of the National Gas Pipeline could not be completed. The Police having taken appropriate and adequate steps is the last inference that can be drawn considering the contemporaneous correspondence as well as the fact that the project of laying of Gas Pipeline had commenced in the year 2018 and had crossed three States i.e. the State of Gujarat, Rajasthan and Haryana to the stretch of 840 kms in a period of nearly 2-2 ½ years while it has taken 04 years to complete the last patch of one District. It leads much to the imagination of the Court as to whether bonafide action can be assumed under such circumstances.

26. Still further, a perusal of the report submitted by the respondents also shows that the assessed compensation was on the advice of the civil administration and was already much higher than the prevalent circle rate for the 'right of user' and had already been credited to the account of the landowners/alleged protestors. The report submitted by the respondent-State



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-26-

also corroborates the said aspect of disbursement of compensation more than 01 year ago, yet, the work of laying of pipeline is still being obstructed. Further, other than a demand for a higher compensation, there is nothing to establish as to how the compensation is less and further there is no challenge to the compensation assessed under the statutory provisions. No proceeding have been initiated by the respective farmers for seeking enhancement of the compensation in the manner as prescribed under the Act of 1962. The exertion of pressure, under the garb of protest and demonstrations, by not allowing the employees and staff to carry out lawful activities-emboldened by the confidence that the Police shall not take any action gives rise to a belief about might being right, a principle which civilized society discarded long away. Respecting the laws and remedy for redressal of the grievance as per the procedure prescribed in law is the hallmark of civilized society and imposes a bounden duty not only on the citizens and peasantry but also on the civil administration and the law enforcement. The Redressal of a grievance has to be sought as per the mechanism prescribed in the law and not by disregarding the law. It is not the assigned responsibility on the Police to negotiate higher prices for the farmers as a cost for law and order rather, the compensation amount is determined as per duly approved guiding principles and formula based on applicable rates determined by the revenue administration.



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-27-

27. It is not the case of the respondents that the petitioner is not compliant of any law or that the necessary statutory approvals, sanction and conditions have not been fulfilled. The grievance espoused by the Company is only with respect to the lack of law enforcement in District Bathinda even the Pipeline has travelled in four different States at different points in time.

28. The lack of adequate and proper action on the part of the Police cannot be exempted or insulated under a sovereign immunity. The law has evolved much further and the State has been cast with a duty to protect its citizens and to maintain law and order. Failure by the State authorities to fulfill the said duty, resulting in a consequential harm to individuals and leading to potential claims, gives rise to an actionable cause. A liability can be fastened on the State where it is evident that there was a failure to act reasonably in maintaining law and order. The over blown fear of breach of peace, which is based more on apprehensions and lack of grit and determination and lack of leadership in law enforcement rather than objective input cannot be accepted as an excuse to sacrifice the rule of law.

29. A strenuous efforts has although been made by the Counsel for the State to seek some more time for an amicable resolution, I am unable to accept such a request at this stage considering that the requests are being repeatedly addressed to the respondent-authorities since 2020 and the petition has been filed only in the year 2024. The loss caused to the nation as a result of inordinate delay in execution of such projects is much to imagine. Every



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-28-

day delay matters in such projects and if a period of 04 years has not been sufficient to equip the Police authorities to resolve the same, the inference actually starts to flow against the Police and the probability of the Police itself having prolonged the protests and demonstrations cannot be ruled out. Inordinate delay in law enforcement makes violation as the new law. An aberration or breach of law cannot be the face of law and should be rejected.

30. This Court does not wish to advice how the authorities and the law enforcement agencies are to act, however, it certainly does express its displeasure to the style of functioning of the District Police and it having chosen its own pace and comfort, oblivious of the importance of the project for the nation and the State.

31. Under the given circumstances, I am inclined to **dispose of the present writ petition bearing CWP-7458-2024 by imposing a cost of Rs. 1 lakh on the Senior Superintendent of Police, Bathinda** for lack of initiative and taking adequate steps and noticing that dilatory tactic is being adopted by the District Police. A further direction is issued that he shall make every endeavor to provide proper Police assistance and make arrangements to ensure timely completion of the project of the petitioner-Company, for which statutory approvals and sanctions have already been issued. He shall also provide adequate security to the employees of the petitioner-Company for undertaking the completion of the project. Besides, the petitioner-Company is also directed to furnish details of the compensation awarded as per law and



**CWP-7449-2024 (O&M) and
CWP-7458-2024**

-29-

also the proof of the deposit of the same in the respective account of the landowner, as per the revenue record, to the Collector. The balance/differential amount, if any, shall be cleared by it within a period of 15 days of receipt of a certified copy of this order.

32. Let a compliance report be filed by the Senior Superintendent of Police, Bathinda within a period of six weeks of the date of receipt of a certified copy of this order. The cost of **Rs. 1 lakh** as imposed be deposited with the “**Poor Patients Welfare Fund**” of the **Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh**”.

33. Further, since the principal grievance of the petitioner stands redressed, the learned Senior Counsel for the petitioners does not press for his prayer of registration of criminal cases against the agitating farmers. **Accordingly, the writ petition bearing No. CWP-7449-2024 is disposed of as being not pressed at this stage.**

34. All other misc. application(s), if any, also stand(s) disposed of accordingly.

35. A copy of this order be handed over to the learned State Counsel under the signatures of the Bench Secretary of this Court.

JULY 19, 2024
Rajender/Vishal sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No