

Item No.19
12.06.2025
Court. No. 19
GB

W.P.A. 6654 of 2025

Sumita Pal & Ors.
Vs.
Union of India & Ors.

Mr. Ivan Roy,
Mr. Debangshu Bandhu

...for the Petitioners.

Ms. Sipra Chanda

...for the Respondent No.1.

Mr. Jaharlal Dey,
Mr. Durga Bhusan Mukhopadhyay

...for the State.

1. The affidavit-of-service as filed today is taken on record.
2. By filing the instant writ petition the writ petitioners pray for issuance of appropriate writ/writs against the respondent authorities for consideration of their representation dated 05.02.2025, a copy of which has been annexed with the instant writ petition in accordance with law.
3. At the time of hearing, Mr. Roy, learned advocate appearing on behalf of the writ petitioners submits before this Court that the writ petitioners' land was acquired by the respondent authorities as per the provisions of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (hereinafter referred to as the 'said Act of 1962').
4. It is submitted by Mr. Roy that since the compensation as received by the writ petitioners are very very inadequate, the writ petitioners approached the respondent authorities by filing the representation

dated 05.02.2025, but the respondent authorities practically did nothing and sat tight over the matter.

5. In course of his submission, Mr. Dey, learned advocate appearing on behalf of the respondent State and its instrumentalities draws attention of this Court to the various provisions of the said Act of 1962. Drawing attention to Section 10(2) of the said Act of 1962 it is submitted by Mr. Dey that in the event the compensation as disbursed to the land losers is found to be inadequate, the remedy lies with the land losers to approach the jurisdictional District Judge by filing an appropriate application. It is submitted by Mr. Dey that in view of availability of alternative efficacious remedy the instant writ petition is not maintainable.
6. Ms. Chanda, learned advocate appearing on behalf of the respondent no.1, that is, Union of India supports the contention of Mr. Dey.
7. For effective adjudication of the instant writ petition this Court at the very outset proposes to look to the provision of Section 10 of the said Act of 1962 which is quoted hereinbelow in verbatim:-

“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 the District Judge.

(3)

(4)

(5)”

8. On careful perusal of the provisions of Section 10 of the said Act of 1962, this Court finds sufficient justification in the submission of Mr. Dey, inasmuch as, that it is the legislative intent that in the event any land loser finds that the compensation as paid to him is inadequate, he has a right to file an application before the jurisdictional District Judge. As rightly pointed out by Mr. Dey that no material has been placed before this Court that the writ petitioners approached the jurisdictional District Judge. It is settled position of law that availability of alternative efficacious remedy is a bar for granting relief under the writ jurisdiction unless a strong case has been made out for invoking the extraordinary jurisdiction. It is also trite law that there are two well-recognized exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is

ultra virus, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the principles of natural justice.

9. Such view was taken by the Hon'ble Supreme Court in the reported decision of ***U.P. State Spinning Co. Ltd. versus R. S. Pandey and Anr.*** reported in ***(2005) 8 SCC 264.***
10. Coming to the factual aspect of this Court, this Court finds that the present case of the writ petitioners does not fall within the aforementioned two exceptions as clearly indicated by the Hon'ble Supreme Court.
11. In view of such and on account of availability of alternative efficacious remedy, this Court considers that the instant writ petition is not at all maintainable.
12. Accordingly, the instant writ petition being WPA 6654 of 2025 is dismissed.
13. However, there will be no order as to costs.
14. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)