

Court No. 2
(1490)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

04.04.2025
(JPD 24)

WPA 382 of 2025

(S. Banerjee)

Makbul Hussain & Anr.
Vs.
Gas Authority of India Limited (GAIL India Ltd.) & Ors.

Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Mr. Bodhisatya Ghosh

... for the petitioner

Mr. Jagriti Mishra
Ms. Mrinmayee Das

... for the respondent nos. 1 to 3

Mr. Subir Kumar Saha
Mr. Bikash Singha

... for the State

The petitioner claims to be owner of LR plot nos. 648 and 649 within Mouza Jugivita, P.S. New Jalpaiguri, in the District of Jalpaiguri. The grievance of the petitioner is that the pipelines for supply of gas have been laid underneath the property of the petitioner causing damage to the aforesaid plots. The further case of the petitioner is that the petitioner has not received any compensation with regard to right of user land in respect of the aforesaid plots.

Mr. Paul, learned advocate for the petitioner draws the attention of the Court to the reply furnished under the provisions of the Right to Information Act in support of his contention that the compensation in respect of the aforesaid lands has been paid to third parties. He further submits if a dispute arises as to whom the compensation has been paid, such a dispute has to be referred by the competent authority to the District Judge under Section 11(5) of the Petroleum and Mineral Pipelines (Acquisition of Right of User in Land) Act, 1962.

The respondents are represented by the respective learned advocates.

Mr. Saha, learned AGP representing the State submits that no copy of the writ petition has been served upon the State.

Mr. Paul, however, submits that copy of the writ petition has been served upon the competent authority. He, however, undertakes to serve a copy of the writ petition to the junior of Mr. Saha in course of this day.

Let the appointment of Mr. Saha along with a junior of his choice, be regularized by the concerned authority.

After hearing the learned advocates for the parties it appears that a dispute has cropped up with regard to apportionment of the compensation and as to the persons to whom the same is to be paid.

Section 11(5) of the 1962 Act states that if any dispute arises as to the apportionment of compensation or any part thereof or as to the person to whom the same or any part thereof 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 nay part thereof, is situated and the decision of the District Judge thereon shall be final.

It appears from the record that the petitioner has submitted a representation before the respondent no. 4, Special Land Officer, being the competent authority raising a dispute as to the persons to whom the compensation is payable.

No decision appears to have been taken on such representation.

In the light of the submissions made by the learned advocate for the respective parties, WPA 382 of 2025 is disposed of by directing the Special Land Acquisition Officer, Jalpaiguri, being the fourth respondent herein to consider the representation of

the petitioner dated December 23, 2024 and to consider as to whether a dispute as contemplated under Section 11(5) of the 1962 Act has arisen. For the purpose of deciding such dispute, it will be open to the competent authority to hear the interested parties who may be affected by such decision.

If the competent authority is of the opinion that a dispute as contemplated under Section 11(5) of the 1962 Act has arisen in the case on hand, then necessary steps have to be taken in terms of Section 11(5) of the 1962 Act.

The entire exercise shall be completed by the fourth respondent as expeditiously as possible but positively within a period of eight weeks from the date of receipt of a server copy of this order along with the copy of the representation dated December 23, 2024.

(Hiranmay Bhattacharyya, J.)