

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18506 OF 2024

VISHAL
SUBHASH
PAREKAR

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Date: 2025.03.15
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Reliance Gas Pipelines Limited

Through his POA

vs.

The Competent Authority,

Dahej, Nagothane and Others

...Petitioner

...Respondents

Mr. Omkar Nagwekar, for the Petitioner.

Mr. Anilkumar Patil a/w. Mr. Digvijay Patil, Mr. S.M. Bhavar, Ms.
Zeel Jain, f or Respondent Nos. 2, 8, 9, 10, 12, 13, 14 and 16.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 13, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The learned counsel for the respondents seeks leave to tender an affidavit of service on respondent No. 7.
3. Leave granted.
4. Affidavit of service is taken on record.
5. The learned counsel for the respondents No. 2, 8, 9, 10, 12, 13, 14 and 16 submits that report of service of notice to rest of the respondents is awaited. The petitioner has filed an affidavit of service indicating that, rest of the respondents have been duly served.
6. Perused the affidavit of service. It seems that notices have

been served by RPAD. Having regard to the nature of controversy at hand, the Court considers it appropriate to proceed to hear and decide the petition.

7. The challenge in this petition is to an order dated 25th October, 2024 passed by the learned District Judge, Kalyan whereby the application preferred by the petitioner under section 10(2) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 against an order dated 27th September, 2019 passed by the Competent Authority-respondent No. 1, awarding compensation of Rs. 1,70,720/- per guntha to respondent Nos. 2 to 16, came to be rejected.

8. During the pendency of the said application, respondent Nos. 3, 4 and 11 passed away. Thereupon, the petitioner preferred an application to bring the legal representatives of respondent Nos. 3, 4 and 11. Notices were issued to the proposed legal representatives of respondent Nos. 3, 4 and 11. There was some delay on the part of petitioner in taking steps to serve the legal representatives of respondent Nos. 3, 4 and 11.

9. By the impugned order, the learned District Judge was persuaded to dismiss the application itself as the learned District Judge was of the view that the petitioner was not diligently taking steps to bring the legal representatives of respondent Nos. 3, 4 and

11 on record, and prosecute the application.

10. The learned counsel for the petitioner submits that the report of service of notice to the legal representatives of respondent Nos. 3, 4 and 11 was awaited. Thus, another application for issue of fresh notices to the legal representative of respondent Nos. 3, 4 and 11 was filed. The learned District Judge thus could not have dismissed the main application.

11. The learned counsel for the respondents No. 2, 8, 9, 10, 12, 13, 14 and 16 opposed the prayer to restore the application to the file of learned District Judge. It was submitted that the petitioner was persistently amiss in prosecuting the application.

12. From the perusal of the material on record and the impugned order, it appears that the petitioner had taken steps to bring the legal representatives on record. The report of service of notice to legal representatives of the deceased respondents was awaited. Thereupon an application for issue of fresh notice was filed.

13. Indeed there is lack of diligence on the part of the petitioner. However, learned District Judge could not have dismissed the main application itself. At best, the failure to bring the legal representatives of respondent Nos. 3, 4 and 11 would entail the consequence of abatement of proceeding against those respondents. There was no justifiable reason to dismiss the main application.

Thus, I am inclined to allow the petition and set aside the impugned order.

Hence, the following order.

ORDER

- 1] The petition stands allowed.
- 2] The impugned order stands quashed and set aside.
- 3] The application stands restored to file.
- 4] The parties shall appear before the learned District Judge on 7th April, 2025, and the petitioner shall take requisite steps to bring the legal representatives of respondent Nos. 3, 4 and 11 on record.
- 5] In the event such steps are taken, the learned District Judge shall decide the application to bring the LRs on record and the main application on their own merits and in accordance with law, as expeditiously as possible.

Petition disposed.

(N. J. JAMADAR, J.)