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W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

and

W.M.P.Nos.41024, 41377, 41380, 41392, 41404,
41412, 41418 and 41421 of 2024

W.P.No.37936 of 2024:

- 1.M.Somasundaram
- 2.R.M.Arun Muthu Raja
- 3.A.Navaneethan
- 4.C.Mohanasudaram
- 5.K.Kamatchisundaram
- 6.N.Chandra
- 7.P.Manonmani
- 8.S.K.Mathiyalagan
- 9.P.Thulasimani @ Thulasiyammal
- 10.M.Subhramaniyan



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

11. Jayanthinathar Property Developers LLP,
No.K5/302 – E, SIDECO Industrial Estate,
Kurichi, Coimbatore – 641 021.

... Petitioners

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.

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

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

5. The Authorized Officer/Competent Authority,
Irugur – Devangonathi Pipeline Project,
Bharat Petroleum Corporation Limited,
Ravathur, Irugur,
Coimbatore District.

... Respondents



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the Records of the Impugned Orders of the 5th Respondent issued in Na.Ka.No.14/2023/IDPL/Irugur dated 01.11.2023 under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 and consequential summons of the 5th respondent Na.Ka.No.15/2023/IDPL/ dated 27.05.2024 and quash the same.

For Petitioners
(in WP.No.37936/2024) : Mr.P.Nethaji

For Petitioners
(in WP.Nos.38238, 38244,
38252, 38256, 38261, 38263
and 38266/2024) : Mr.B.Anandan

For R1 and R2
(in WP.No.37936/2024) : Mr.V.Ashokkumar
Central Government Standing Counsel

For R1 and R2
(in WP.Nos.38238, 38244,
38252, 38256, 38261, 38263
and 38266/2024) : Mr.K.S.Jeyaganesan
Senior Panel Counsel

For R3
(in WP.No.37936/2024) : Mr.G.Ameedius
Government Advocate



WEB COPY



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

For R3

(in WP.Nos.38238, 38244,
38252, 38256, 38261, 38263
and 38266/2024)

: Mr.C.Kathiresan
Special Government Pleader

For R4

(in WP.Nos.37936, 38238,
38244, 38252, 38256, 38261,
38263 and 38266/2024)

: Mr.Krishna Srinivasan
Senior Counsel
for M/s.Geethi Ara

For R5

(in WP.Nos.37936, 38238,
38244, 38252, 38256, 38261,
38263 and 38266/2024)

: Mr.AR.L.Sundaresan
Additional Solicitor General of India
Assisted by Mr.O.S.Karthikeyan

COMMON ORDER

All these Writ Petitions are filed challenging the impugned Notification issued by the 5th respondent herein in Na.Ka.No.14/2023/IDPL/Irugur, dated 01.11.2023 under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, for laying pipeline in the subject lands belonging to the petitioners as part of Irugur-Devangonhi Pipeline Project.



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

2. In W.P.No.37936 of 2024, the consequential summons issued by the 5th respondent in Na.Ka.No.15/2023/IDPL/dated 27.05.2024 for payment of compensation to the petitioners therein was also challenged. In other writ petitions, the main notification under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, alone has been challenged.

3. It is the common case of all the petitioners that they are lawful owners and possessors of agricultural lands bearing various survey numbers in Irugur, Kangayampalayam, Suler Villages of Suler Taluk, Coimbatore District and the said lands are the primary source of their livelihood for their family. It is the case of the petitioners that in the year 1999, a pipeline project named “Petronet Cochin-Coimbatore-Karur” Project (hereinafter referred to as 'Petronet CCK Project' for brevity) was implemented by Petronet India Limited, which was later acquired by Bharat Petroleum Corporation Limited, the 4th respondent herein. During implementation of Petronet CCK Project, in order to lay pipelines underneath the subject lands,



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

right of user was acquired under the provisions of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. After acquiring the right of user in the subject lands, pipelines were laid underneath the subject lands of the petitioners for the purpose of transporting petroleum products. The same was part of Petronet CCK Project. Now, the 4th respondent which acquired Petronet India Limited has conceived a new pipeline project called 'Irugur - Devangonhi Pipeline Project (hereinafter referred to as 'IDPL Project' for brevity). The 4th respondent decided to lay another separate pipeline as part of IDPL Project through the subject lands of the petitioners and hence, the impugned notification under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, was issued by the 5th respondent. Aggrieved by the same, the petitioners have come before this Court complaining non-compliance of provisions of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

4. The 4th respondent herein filed a counter affidavit stating that for the purpose of laying pipeline for Petronet CCK Project, a preliminary



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

notification under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, was issued and thereafter, the objections of the land owners including the petitioners were heard as per provisions of Section 5 of the said Act and finally, notification was issued under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. Thus, the right of user vested with Petronet India Limited got automatically transferred to 4th respondent/Bharat Petroleum Corporation Limited on amalgamation of Petronet India Limited with Bharat Petroleum Corporation Limited. Therefore, it is stated that the 4th respondent-Corporation is entitled to lay another pipeline in the subject lands over which right of user was already acquired. Therefore, it is the main contention of the contesting respondents that impugned notification under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 is tenable in law without issuing separate notification under Sections 3 and 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. It is also stated by the 4th respondent that IDPL project is closely connected with Cochin-Coimbatore-Karur Pipeline project as it aimed at taking petroleum products



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

to other parts of Tamil Nadu and two districts of Karnataka. It is also stated that major part of pipeline laying work was already over and petitioners approached this Court after considerable time so as to stall the project, which is already more than halfway through.

5. The 5th respondent herein filed a counter affidavit supporting the contentions of the 4th respondent.

6. The learned counsel appearing for the petitioners vehemently contended that IDPL Project is a separate and new project and therefore, the 5th respondent is not entitled to issue notification under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, straight away without issuing notification under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. It is the specific contention of the learned counsel that if a fresh notification under Section 3(1) of the said Act is issued and objections of the petitioners are called, the petitioners will be in a position to raise their objections before final notification under Section 6(1) of the said Act.



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

7. It is argued by learned counsel appearing for the petitioners that in the case on hand, the 1st respondent failed to follow the statutory mandate under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 and consequently, the impugned notification under Section 7(1)(i) of the said Act is liable to be quashed. The learned counsel further submitted that laying of pipelines in the subject lands will fragment the lands of the petitioners and affect the agricultural activities.

8. Per contra, Mr.Krishna Srinivasan, learned Senior Counsel appearing for the 4th respondent and Mr.AR.L.Sundaresan, learned Additional Solicitor General of India appearing for the 5th respondent would submit that as per the earlier notifications issued under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the right of user in the subject land vested with the Petronet India Limited and later, on acquisition of the same by Bharat Petroleum Corporation Limited, the right of user in the subject lands



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

available to the said company automatically got transferred to Bharat Petroleum Corporation Limited.

9. It is submitted that since the right of user is already vested, there is no need to acquire right of user by issuing fresh notifications under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. It is further submitted that the present project is closely connected with the earlier project and therefore, it cannot be treated as a separate project, which requires a new notification from the beginning. It is forcibly contended by the learned Senior Counsel appearing for the respondent No.4 and learned Additional Solicitor General appearing for the respondent No.5 that when the right of user is already acquired for laying second pipeline in the very same subject lands, right of user need not be acquired again and mere notification under Section 7(1)(i) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 is sufficient. In respect of his contention the learned Additional Solicitor General relied on judgment of the Apex Court in ***Ichchapur Industrial Cooperative Society Ltd. vs. Competent Authority, Oil and Natural Gas***



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

Commission and another reported in ***(1997) 2 SCC 42***. Reliance was also placed on judgment of the Andhra Pradesh High Court in ***Banavath Sudhakar Naik vs. Hindustan Petroleum Corporation Limited*** reported in ***2021 SCC Online AP 3442***.

10. In the light of the submissions made by the learned counsel appearing for the petitioners and the learned Senior Counsel and the learned Additional Solicitor General appearing for the contesting respondents, the main question to be decided in these cases is whether the respondents are entitled to lay the second pipeline in the subject lands in respect of which right of user was already acquired by issuing proper notifications under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

11. It is not in dispute that the right of user was acquired in the subject lands for the purpose of laying Petronet CCK Project in the year 1999 and necessary notifications were issued under Section 3(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land)



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

Act, 1962. Subsequently, the objections of the land owners were heard as per Section 5 and final notification was issued under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. Therefore, there is no dispute that the right of user was already acquired by proper notifications as mentioned above.

12. A reading of Section 6(2) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 would make it clear that on publication of notification under Section 6(1), the right of user in the land specified in the notification shall vest absolutely in favour of the Central Government free from all encumbrances. The Section 6(4) of the said Act make it clear that the Central Government may direct by order in writing that the right of user in the land for laying the pipelines shall instead of vesting with the Central Government shall vest with the Corporation proposing to lay the pipelines.

13. A perusal of notification issued under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land)



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

Act, 1962 included in the typed-set of papers filed by the 4th respondent would indicate that notification itself declares that on publication of notification the land shall vest in the Petronet India Limited free from all encumbrances.

14. It is admitted by the petitioner in the affidavit that Petronet India Limited was acquired by Bharat Petroleum Corporation Limited. Therefore, whatever the right of user available to Petronet India Limited got transferred to Bharat Petroleum Corporation Limited on amalgamation. Therefore, we can safely come to the conclusion that the right of user over the subject lands was already vested with Bharat Petroleum Corporation Limited.

15. It is not disputed that already one pipeline was laid for the purpose of transportation of petroleum products. Now, as a part of IDPL Project, the 4th respondent wants to lay another pipeline also for transportation of petroleum products from Irugur - Devangonthi. Whether, laying of second pipeline in the lands over which the right of user was already acquired needs fresh notifications under Sections 3(1) and 6(1) of



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 is no longer *res integra* in view of decision of the Apex Court in ***Ichchapur Industrial Cooperative Society Ltd.***, case cited supra. The relevant observation of the Apex Court in the above mentioned judgment reads as follows:-

“12. There is no dispute between the parties that a Notification under Section 3 of the Act was duly published which was subsequently followed by Declaration under Section 6 with the result that the right of user of the land in question vested in the ONGC. The question which is being canvassed before us now is that new pipelines for carrying another commodity cannot be laid unless fresh Notification under Section 3 followed by a Declaration under Section 6, which too is made after following the procedure prescribed under Sections 4 and 5, are issued or the land itself is acquired under the Land Acquisition Act for this purpose. We shall consider this question, if need be, later as we intend to take up the other question, namely, the question whether "water" is a "mineral" or not, first.

13. This question arises in view of the provisions contained in Section 7 of the Act which provides that where the



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

right of the user, in any land, has vested in the Central Government or in any State Government or Corporation under Section 6, it shall be lawful by those authorities to enter upon the land and lay pipelines or to do any other act necessary for the laying up of pipelines.

14. Clauses (ia) and (ii) of Sub-section (1) which are relevant are reproduced below:-

"(ia) 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."

15. A perusal of the above would indicate that if the right of user of the land has vested in the Government for



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

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.”

16. In ***Banavath Sudhakar Naik*** case cited supra, a Division Bench of Andhra Pradesh High Court while considering the similar question observed as follows:-

“7. Law is well settled that when the land already acquired under the previous proceedings under the 1962 Act is available and a pipeline has already been laid therein, the said land can be used for laying the second pipeline also. The learned single Judge has rightly dismissed the writ petition.”



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

17. The Apex Court in the above mentioned case law held that when right of user is acquired by way of declaration under Section 6 of the Act for laying pipeline to transport the petroleum products, in the very same lands another pipeline can be laid for transporting other minerals.

18. In the case on hand, earlier the right of user was acquired for the purpose of laying pipeline to transport petroleum products. Now, the second pipeline is proposed to be laid only for transportation of very same products. Therefore, as held by the Apex Court, the 4th respondent is on a better footing in the present case and the contention raised by the petitioners that fresh notifications under Sections 3(1) and 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, is required before issuing impugned notification under Section 7(1)(i) of the Act is without any substance.

19. The other contention raised by the petitioners that by virtue of project, the agricultural lands of the petitioners will be fragmented is not acceptable to this Court, in view of the fact that the pipelines will be laid



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

WEB COPY

only underneath the property of the petitioners and the petitioners are free to use upper surface for cultivation. The only restriction is that the petitioners shall not excavate the lands so as to affect the pipelines available underneath. Anyway, when earlier notification was issued under Section 3(1) of the Act, the objections of the petitioners were heard and final notification was issued under Section 6(1) of the said Act and the same has become final and in view of the same, the said objections raised by the learned counsel appearing for the petitioners cannot be taken into consideration at this stage.

20. Accordingly, all these Writ Petitions are dismissed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

29.01.2025

Index : Yes
Speaking order : Yes
Neutral Citation : Yes
dm



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

To

WEB COPY

- 1.The Secretary to Government,
Union of India,
Ministry of Petroleum and Natural Gas,
Shastri Bhawan, New Delhi – 110 001.
- 2.The Chairperson,
Petroleum and Natural Gas Regulatory Board (PNGRB),
1st Floor, World Trade Center,
Babar Road, Barakhamba,
New Delhi – 110 001.
- 3.The District Collector,
Office of the District,
Coimbatore District.
- 4.The Project Manager,
Irugur-Devangonhi Pipeline Project – Project Office,
Bharat Petroleum Corporation Limited,
Irugur, Coimbatore.
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Ravathur, Irugur,
Coimbatore District.



WEB COPY



W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024

S.SOUNTHAR, J.

dm

**W.P.Nos.37936, 38238, 38244, 38252, 38256,
38261, 38263 and 38266 of 2024**

29.01.2025