**(2016) 03 KAR CK 0069**

**In the Karnataka High Court**

**Case No :** Writ Petition No. 103949 of 2013 C/w Writ Petition Nos. 101106 of 2013, 84067, 84068, 84141, 84142, 87549, 87597, 87598 and 87599 of 2012 and 102450, 101226, 102449, 101107, 101446, 101228, 101227, 103961, 103960, 103959, 103957, 101216, 101217, 101218, 1

Chairman, RGTI Ltd., Bidar — APPELLANT

Vs

Khasim Ali — RESPONDENT

**Date of Decision :** 03-03-2016

**Acts Referred:**

Land Acquisition Act, 1894 — Section 18
Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 — Section 11, 3(1), 4

**Citation :** (2016) ILRKarnataka 2793

**Hon'ble Judges :** Ashok B. Hinchigeri, J.

**Bench :** Single Bench

**Advocate :** S.P. Shankar, Senior Advocate for Sudarshan M. and V. Nisty, Advocates, for the Petitioner; Ameet Kumar Deshpande, Advocate, for the Respondent No. 1; Notice to dispensed with, for the Respondent No. 2; S.P. Shankar, Senior Advocate for Sudarshan M. and V

**Final Decision :** Disposed Off

## Judgement

Ashok B. Hinchigeri, J.—In all these cases, the challenge is raised to identical but separate orders, passed by the Court of the Presiding Officer FTC-II, Bidar on the applications filed by the first respondents invoking Section 10(2) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (''P.M.P. Act'' for short) r/w Section 18 of the Land Acquisition Act, 1894 (''L.A. Act'' for short).

2. The facts of the case in brief are that the Government of India issued the preliminary notification, dated 16.10.2004 under Section 3(1) of the P.M.P. Act proposing to acquire the right of user in the lands in question for the purpose of transporting petroleum. Overruling the objections of the owners of the lands, the

declaration under Section 6(1) of the P.M.P. Act was issued on 09.04.2005 and the possession of the lands was taken over by the Competent Authority on 16.05.2007. The determination of the compensation was made by the Competent Authority on 04.03.2010. Not satisfied with the award of the Competent Authority, the first respondents in all the cases presented the application to the District Judge. The District Judge modified the Competent Authority''s order by awarding the damages for the loss of crops for two years and interest at the rate of 6% p.a. In all other respects, the Competent Authority''s award was left unaltered.

3. Sri S.P. Shankar, the Learned Senior Counsel appearing for Sri M. Sudarshan for the petitioner submits that the Competent Authority took the possession of the lands in question on 16.05.2007 and restored their possession in the original form to the land-owners on 03.05.2008. As the petitioner was in possession of the land only for one year, it cannot be said that the first respondents had any difficulty in growing the crops either prior to 16.05.2007 or posterior to 03.05.2008. The District Judge has erred in awarding the compensation for the loss of crops for four years. On being asked as to why the Competent Authority awarded the damages for two years, when the petitioner''s case is that it was in possession of the land for only one year, his response is that the Competent Authority has been liberal.

4. The Learned Senior Counsel takes serious exception to the awarding of the interest by the District Judge. He submits that as there is no delay on the part of the petitioner in depositing the amounts, the petitioner cannot be fastened with the liability to pay the interest. He submits that the District Judge appears to have awarded the amounts treating the application under Section 10(2) of the P.M.P. Act as the Reference filed under Section 18 of the L.A. Act.

5. Per contra, Sri Ameet Kumar Deshpande, the Learned Counsel for the respondent No. 1 in all the petitions submits that the preliminary notification under P.M.P. Act was issued on 16.10.2004. Under Section 4 of the said Act, the petitioner is clothed with the power to cut down any standing crop from the date of the issuance of the preliminary notification. This being the power of the petitioner by the operation of law, the land-owner felt it safe not to grow any crops after the issuance of the preliminary notification on 16.10.2004. He also brings to my notice the provisions contained in Section 9 of the said Act which forbids the owner from putting up any building, excavating any well, planting any tree after the issuance of the final notification on 09.04.2005. He submits that the land-owners are simply prevented from developing and enjoying their property without any compensation being paid to them.

6. He submits that under Section 11(2) of the P.M.P. Act, the petitioner is liable to pay interest at the rate of 6% p.a. from the date, on which the compensation had to be deposited till the date of actual deposit. He submits that the market value is not at all enhanced by the District Judge. He requests that, in exercise of the power conferred by Article 226 of the Constitution of India, just and fair

market value be determined by this Court, even when the land-owners have not filed the writ petitions challenging the District Judge''s judgment and order.

7. The submissions of the Learned Counsel have received my thoughtful consideration. The following two questions fall for my consideration:

(1) Whether the District Judge is justified in awarding the compensation for the loss of crops for four years?

(2) Whether the District Judge is justified in awarding the interest on the compensation amount payable?

8. In re. question No. 1

At the first blush the arguments advanced on behalf of the petitioner that the land-owners had no difficulty in growing the crops on the lands in question either prior to 16.05.2007 (the date of taking the possession) and posterior to 03.05.2008 (the date of handing back the possession to the land-owners). But what cannot be lost sight of is that once the notification under Section 3(1) of the P.M.P. Act is issued, certain consequences would follow. Section 4 of the said Act states that on the issuance of Section 3(1) notification, it shall be lawful for the person authorised by the Government to cut down and clear away any part of any standing crop. When the Democles sword is looming large over the head of the land-owners, when the authorised officer can have the standing crop cut down any moment, the land-owners cannot be expected to gather courage to resort to the sowing operations. In the instant case, the notification under Section 3(1) was issued on 16.10.2004 and the possession was restored to the land-owners on 03.05.2008. It is therefore safe to hold that they could not grow any crops for a period of four years between 2004 and 2008. The Competent Authority itself has awarded the compensation for the loss of crops for two years, even when the petitioner was in possession of the lands in question for one year only. The said period is rightly enlarged to four years by the District Judge. For not growing the crops for four years, the land-owners are entitled to be compensated. As held by the Apex Court in the case of Rustom Gowasjee Cooper v. Union of India, 1970 (2) SCC 298 the compensation is anything given to make the things equal in value-The question No. 1 is answered in the affirmative.

9. In re. question No. 2

For considering the second question, the Apex Court''s judgment in the case of Pratibha Processors and others v. Union of India and others, (1996) 11 SCC 101, is of immense value for deciding the case. It is held therein that the interest is compensatory in character and is imposed on the party, who has withheld the payment of any amount, as and when it became due to be paid. The interest payable under Section 11(2) of the P.M.P. Act is a mere accessory of the principal liability; the principal amount herein is the amount payable under Section 10 of the P.M.P. Act.

10. Section 11(1) and (2) of the P.M.P. Act read as follows:

"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 he 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."

11. Rule 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963 (''P.M.P. Rules'' for short) states that the amount of compensation under Section 11 of the P.M.P. Act has to be paid within 21 days from the receipt of the intimation under Rule 4. Once the fixation of the compensation is done, the Competent Authority has to send the information/ intimation to the parties. Considering all these provisions contained in Section 11 (1) and (2) of the P.M.P. Act and Rules 6 and 4 of the P.M.P. Rules, I have no hesitation in holding that the petitioner is liable to pay interest at the rate of 6% from the expiry of 21st day from the date of the receipt of intimation under Rule 4 of the P.M.P. Rules.

12. It is also brought to my notice by the Learned Senior Counsel, Sri S.P. Shankar that the petitioner has made the advance payment of compensation to the land-owners. The Court appreciates the proactive and timely concern shown by the petitioner. The petitioner''s liability to pay the interest would start from the date on which the compensation-amounts became payable under Rules 6 and 4 of the P.M.P. Rules and after deducting the amount paid by way of advance.

13. I do not propose to examine the issue of enhancing the amounts awarded towards the market value in the petition filed by the RGTI Ltd. If the land-owners file the petitions seeking the redressal of their grievances, the matter can be examined.

14. These petitions are accordingly disposed of. No order as to costs.

15. Now that the main matter itself is disposed of, I.A. No. 1/2015 in W.P.No. 102450/2013 for vacating stay and I.A. No. 1/2015 in W.P.No. 102781/2013 for stay are dismissed as having become unnecessary.

 