

(2019) 01 DEL CK 0005

In the Delhi High Court

Case No : Civil Writ Petition No. 6546, 6547, 6871, 6874, 6876, 6879, 6891, 6906 Of 2014 & CM APPL. 15611, 15613 Of 2014, 41295, 41294 Of 2016

Gail (India) Ltd. & Ors

APPELLANT

Vs

Rai Singh & Anr

RESPONDENT

Date of Decision : 07-01-2019

Acts Referred:

Petroleum And Minerals Pipelines (Acquisition & Right Of User In Land) Act, 1962 —
Section 3(1), 6(1), 10(2), 10(3), 17
Code of Civil Procedure, 1908 — Section 80
Petroleum and Minerals Pipeline (Acquisition of the Right of User in Land Rules, 1963
— Rule 4(3), 5

Citation : (2019) 01 DEL CK 0005

Hon'ble Judges : S. Muralidha, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Vineet Malik, Vinod Sehrawat, Dharmendra Sharma

Final Decision : Dismissed

Judgement

Dr. S. Muralidhar, J

CM APPL. 41295/2016 (delay)in W.P.(C) 6879/2014

1. For the reasons stated in the application, the delay is condoned and the application is disposed of.

W.P.(C) 6546/2014 & CM APPL. 15611/2014, W.P.(C) 6547/2014 & CM APPL. 15613/2014, W.P.(C) 6871/2014, W.P.(C) 6874/2014, W.P.(C) 6876/2014, W.P.(C) 6879/2014 & CM APPL. 41294/2016, W.P.(C) 6891/2014 & W.P.(C) 6906/2014

2. These writ petitions have been filed by the Gas Authority of India Limited (GAIL) challenging the common impugned order/judgement dated 16th July 2014 passed by the learned Additional District Judge-I (ADJ-I) South West District Dwarka Courts, Delhi disposing of the individual applications filed by the

Respondents under Section 10 (2&3) of the Petroleum And Minerals Pipelines (Acquisition & Right Of User In Land) Act 1962. The learned ADJ has assessed the market value of the right to user of the land of the Respondents in villages Nanakheri and Badusarai at Rs. 2.93 crores per acre as on the date of notification issued for their acquisition under Section 3 (1) of the Act on 22nd May 2009 and has consequentially directed that the Respondents (Plaintiffs before the learned ADJ) would be entitled to receive compensation at the said rate along with interest at 6 percent per annum at the date of filing of the suit till the actual receipt of the amount. A further direction was issued to the present Petitioner being to pay the difference of the Award amount to all the Respondents after conducting a survey of the land by associating the individual Plaintiffs or their Legal Representatives (LRs)/successor, if any, in the exercise.

3. The factual background is that following the issuance of the above notification under Section 3 (1) of the Act on 22nd May 2009 for the purposes of acquisition of the right to use the land for laying down a pipeline for transportation of natural gas through Bamnauli superline from "Chainsa-Jhahhar-Hissar trunk gas pipeline project", a notification was published under Section 6 (1) of the Act in the gazette on 21st August 2008 and an Award dated 30th June 2009 determining the compensation payable in respect of the land village Nanakheri at Rs. 68,90,000/- per acre and in respect of village Badusarai at Rs. 81,60,000/- per acre. In arriving at the said compensation, the Competent Authority (CA) took Rs. 53,00,000/- per acre to be the minimum indicative price on which the market value of the land was assessed.

4. Aggrieved by the above determination, the Respondents approached the Court of the learned ADJ for re-determination of the market value of the land at Rs. 4 crores per acre on the ground that the CA did not take into consideration the sale deed in respect of the adjoining villages like namely Chhawla in Delhi, Dharmapura and Bajghera both in Gurgaon, Haryana.

5. Before the learned ADJ, an objection was taken by the present Petitioner Gail that the suits filed by the Respondents/Plaintiffs were barred by limitation. It was pointed out that the suit was filed in February 2010 whereas the Award was passed in 30th June 2009. Reference was made to the relevant rules i.e. the Petroleum and Minerals Pipeline (Acquisition of the Right of User in Land Rules, 1963 ("Rules").

6. The learned ADJ noted that under Rule 4 (3) of the Rules that CA was required to inform the parties of the fixation of compensation but nothing was placed on record before the learned ADJ that the said requirement, in terms of Rule 4 (3) was complied with. This was in the context of the Rule 5 of the Rules requiring such application seeking analysis of compensation be filed "not later than ninety days of the receipt of the intimation from the Competent Authority under Rule 4 (3)". It was accordingly concluded by the learned ADJ that since nothing was placed on record to show when such intimation was sent, the period of limitation could not be said to have begun to run.

7. Apart from the above preliminary objection, on the basis of the pleadings in the suits as many as nine issues were framed by the learned ADJ. On issue (i), viz., whether the suit was not maintainable since the statutory notice under Section 80 of the CPC was not served, the issue was decided against the GAIL since it had not led any positive evidence to prove the issue.

8. On the issue whether the Plaintiffs were entitle to receive compensation on the market value of land at Rs. 1.30 crores per acre, the learned ADJ held that there was no impediment to considering such plea on the basis of the market value of the land in the adjoining areas. The documents, which included the Awards of Villages Bajghera and Dharampur and the sale deed (Ex.PW2/1, Ex.PW3/1 & Ex.PW3/2) showed the average market value of the land working out to Rs. 2.93 crore per acre and it is on this basis that the learned ADJ granted the relief in favour of the Respondents as noticed earlier.

9. Before this Court, learned counsel for the Petitioner was unable to dispute the fact that there was no document placed before the learned ADJ which constituted proof of service of all the Respondents of the intimation issued by the CA regarding fixation of compensation by the order dated 30th June 2009. All that was said was that on 27th July 2009, the Respondents received the compensation amount and, therefore, it tantamounted to an intimation being given to the Respondents.

10. It is rightly pointed out by learned counsel for the Respondents, that the Respondents were never in fact served with intimation by the CA that he had passed an order on 30th June 2009 fixing the amount of compensation. The relevant rules made in terms of Section 17 of the Act by the Central Government were not available in any public domain. In other words, the Respondents were not even aware that such Rules applied for the purposes of their preferring a claim to enhance compensation. The mere fact that the Respondents may have been called and given the compensation cheques would not, therefore, satisfy the requirement under Rule 5 of the Rules that, there has to be an intimation by the CA to the individual Respondent about the passing of the order fixing the amount of compensation.

11. Therefore, the Court concurs with the learned ADJ that the period of limitation of ninety days cannot be said to have even commenced in the present cases in the absence of any proof placed by GAIL on record showing that the intimation was in fact sent to each of the Respondents in regard to the order of the CA fixing the compensation. The objection as regards the limitation raised by the Petitioner was therefore, rightly rejected by the learned ADJ.

12. It is the contended by the learned counsel for the Petitioners that in a suit preferred by Shri Jai Bhagwan (the Respondent in W.P.(C) 6871/2014), the actual relief claimed was for a lesser amount whereas the learned ADJ has granted a higher amount. Admittedly, all the Respondents have their lands in the same villages which form the subject matter of the suits before the learned ADJ.

Also the learned ADJ has in fact dealt with this issue in para 24 of the impugned order and, relying on the judgment in Babu v. Progressive Engineering Construction Ltd. 2005 Legal Eagle (MP) 1087 concluded that there was no impediment in granting the enhanced compensation to Shri Jai Bhagwan on the same footing as those similar placed. Indeed the land being of all these Respondents located in the same villages, there was no question of paying different amounts of compensation as regards the right of user. Consequently, even this plea is without basis.

13. As regards the actual enhancement of the compensation apart from clearly mentioning that the sale deed produced before the learned ADJ were all lands of the adjoining state of Haryana, there is no effort made by the Petitioner to show that the order passed by the learned ADJ ordering the enhancement was without basis. It has to be remembered that Delhi is surrounded on the North, West and South by the state of Haryana and the sale deed in respect of the lands of areas adjoining the villages in questions of Bajghera and Dharampur being close to the border of Delhi and Haryana can be considered. In other words, it cannot be said that the order of the learned ADJ on merits was without basis.

14. For the aforementioned reasons, the Court finds no merit in any of these writ petitions and the same are dismissed. The pending applications are disposed of.