
(2021) 08 GAU CK 0082
In the Gauhati High Court
Case No : Writ Petition (Civil) No. 695 Of 2021

Nur Hussain

APPELLANT

Vs

State Of Assam And 3 Ors

RESPONDENT

Date of Decision : 23-08-2021

Acts Referred:

Petroleum and Minerals Pipelines (Acquisition or Right of User Inland) Act, 1962 —
Section 2, 3, 3(1), 6(1), 10

Citation : (2021) 08 GAU CK 0082

Hon'ble Judges : Prasanta Kumar Deka, J

Bench : Single Bench

Advocate : A Ali

Final Decision : Disposed Of

Judgement

Heard Mr. A Ali, learned counsel for the petitioner. Also heard Mr. S Mitra, learned counsel for the respondent GAIL. Ms. N Bordoloi, learned

standing counsel for the Revenue Department and Ms. M Barman, learned State counsel are also present.

The petitioner filed this writ petition thereby challenging a notice issued under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition or

Right of User Inland) Act, 1962 whereby land measuring 2 Kathas 2.6 Lechas covered by Dag No. 14 of village Bharegaon under Mouza-Paca of

Sarupeta Revenue Circle in the district of Barpeta was acquired with the right to user inland under the said Act of 1962. The said notice was issued

by the competent authority under Section 2 of the said Act of 1962. The said land was acquired with the right to use for laying of the Baruani-

Guwahati Natural Gas Pipeline (BGPL) as integral part of Jagdishpur-Haldia-Bokaro-Dhamra Natural Gas Pipeline. The petitioner filed this writ

petition being aggrieved by the amount of compensation which as per the counsel of the petitioner is on the lower side and required to be enhanced.

It is submitted by Mr. Ali that over the said land the petitioner is residing with permanent houses, valuable trees/ zirat etc. The notice was issued in the

name of the father of the petitioner. Accordingly, it is the contention of Mr. Ali that the respondent company has no authority to remove the

permanent structure etc. accordingly prayed for shifting of the gas pipeline by passing his land and / or to provide appropriate compensation on the

market value of the land to the petitioner. Vide order 12.02.2021, notice was issued by this court and in the interim the operation of the impugned

notice dated 12.03.2020 was directed to be suspended.

The respondent Gas Authority of India (GAIL) has filed an application seeking for vacating / modification of the impugned order dated 10.02.2021. It

is submitted by Mr. Mitra that the Deputy Secretary to the Govt. of Assam was appointed as competent authority for the pipeline project vide an

official gazette notification dated 14.09.2018. As per the Section 3 of the said Act of 1962 a gazette notification was published by the Government of

India dated 31.12.2018 thereby notifying the public the intention of the Government of India for acquiring the right of user of various land for the

aforsaid project. The said pipeline project is required to be constructed amongst other over an area of 2 Kathas 2.5 Lechas covered by Dag No. 14

of village Bharegaon under Mouza-Paka of Sarupeta Revenue Circle and accordingly it was published in the official gazette dated 12.10.2019 under

Section 3(1) of the said Act, 1962. Thereafter, the notice under Section 6(1) of the said Act, 1962 was published thereby acquiring the right of user for

various plots of land including 2 Kathas 2.60 Lechas which is the subject matter in this writ petition. The said process was initiated and completed

after joint field verification was carried out by the representative of the Circle Officer, GAIL and the concerned land owners affected. The

compensation was determined by the competent authority as per the provision of the Act, 1962 after considering the value of zirats fixed by the

Agriculture Department of the State and as the petitioner failed to comply with the pre-disbursal conditions namely non-submission of the required

documents, non signing of the declaration form for receiving compensation and the indemnity bond, therefore the compensation could not be processed

and disbursed. It is also indicated that the name of the petitioner was not recorded over the said land and as such notice was issued in the name of the father of the petitioner.

Mr. Mitra also submitted that the name of the father though in the present Jamabandi is recorded as Abdul Rahman but as per the information the name of the father is Ahmed Rahman. The said fact is not disputed by Mr. Ali, the learned counsel for the petitioner. Mr. Mitra also produced letter dated 17.03.2021 issued in the name of the present petitioner whereby an amount of Rs. 66,986.56 was assessed for the compensation against the zirat and the land. The said letter dated 17.03.2021 was received by the present petitioner during pendency of this writ petition. It is contended by Mr.

Ali that the amount of compensation is not as per the value of the land and as such the said compensation is required to be enhanced as per the provision of law.

From the submission of the learned counsel for the petitioner and the stand taken by Mr. Mitra, learned counsel for the respondent GAIL it is found

that the said land was acquired under the said Act of 1962 whereby the right of user of the said land was acquired and the said acquisition is restricted

to that extent only not beyond that. It is also not disputed by Mr. Ali that the amount assessed by the competent authority vide letter dated 07.03.2021

was served on the petitioner. From the contention of the learned counsel for the petitioner, I am of the opinion that the petitioner is aggrieved on the

assessment made by the competent authority only. The Act of 1962 stipulates in Section 10 that if the amount of compensation determined by the

competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the

parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that District Judge.

Accordingly, as there is a specific provision under the said Act of 1962, the petitioner if at all is aggrieved by the assessment made by the competent

authority appointed under the Act, 1962 is hereby granted the liberty to approach competent District Judge whereafter the concerned District Judge

shall dispose of the said application as per the terms of the said Act, 1962. The acceptance of the amount assessed by the competent authority by the

petitioner shall not be a bar in approaching the concerned District Judge for

enhancement of the said compensation. The petitioner accordingly shall approach the District Judge within a period of 15 days whereafter the said application shall be disposed of after giving due notices to the concerned stock holders.

With the said observation, this writ petition accordingly stands disposed of.

Interim order passed earlier stands vacated. No costs.