
(2019) 09 CAL CK 0016

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 8323 (W) Of 2019

Ozonic Realtors Private Ltd

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 05-09-2019

Acts Referred:

Petroleum & Minerals Pipelines (Acquisition Of Right Of User In Land) Act, 1962 —
Section 3, 3(1), 5, 6

Citation : (2019) 09 CAL CK 0016

Hon'ble Judges : Subrata Talukdar, J

Bench : Single Bench

Advocate : Abhrajit Mitra, Sarvapriya Mukherjee, Yashovardhan Kochar,
Sumanta Biswas, Bikash Shaw, Susobhan Sengupta, T. M. Siddiqui, Subir Pal,
Nilotpall Chatterjee, Sailesh Mishra

Final Decision : Disposed Off

Judgement

Subrata Talukdar, J

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Mukherjee, Learned Counsel led by Mr. Mitra, Learned Senior Counsel, submits that the Respondents, which includes the State-respondents as the Acquiring Authority and GAIL (Gas Authority of India Limited), the Requiring Body, have proceeded to lay pipe lines in the plots belonging to the petitioner company within Mouza - Amlajora, J.L. No. 64, Block - Kanksa, District : Paschim Bardhaman.

Learned Counsel for the petitioner submits that the laying of pipe lines have proceeded with rapid speed and now are about to be laid in the land of the petitioner company on the ground of right of user of land as provided under the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short the 1962 Act).

The petitioner submits that the Respondents have proceeded straight from the stage of public notice of acquisition under Section 3 of the 1962 Act to Section 6 thereof which is the declaration of acquisition of right of user.

In such view of the matter, the petitioner has been deprived of its right of raising objections as provided by Section 5 of the 1962 Act.

Mr. Sengupta, Learned Senior Government Advocate, appears for the State-respondents and relies on the Affidavit-in-Opposition of the Respondent Nos. 2, 3 and 4 i.e. the land acquisition authority.

From the Affidavit-in-opposition, Mr. Sengupta points out that the petitioner was attempted to be served notice under Section 3(1) of the 1962 Act but since the petitioner or its personnel could not be found at their office address or at the site, the notice was returned unserved. Only three objections were received and the same was disposed of in accordance with law. Steps were taken thereafter to proceed to the stage of notification under Section 6 of the 1962 Act.

Mr. Sengupta asserts that the petitioner was aware of the notification under Section 6 and the subsequent declaration of Award on 28th January, 2019.

The further stand is taken by the State Authority that since the pipeline project has progressed substantially, any shifting/diversion at this juncture shall not be possible.

Having heard the parties and considering the materials placed, this Court finds that except for the solitary pleadings in support of the attempted service of notice to the petitioner under Section 3(1) of the 1962 Act, there is no convincing evidence on record that on the absence of the petitioner or any of their personnel to receive the notice under Section 3(1), a further attempt was made by the authority to re-serve the notice on the petitioner.

In the above view of the matter, this Court is of the view that the petitioner was prevented by sufficient cause from exercising its right to raise objection under Section 5 of the 1962 Act.

In the backdrop of the above discussion, this Court does not intend to detain the writ petition further.

Since natural justice as reflected in the 1962 Act itself appears to have been the casualty, the petitioner is permitted to raise its objections before the Competent Authority within a week from this date.

The Competent Authority shall then decide in terms of Section 5 of the 1962 Act within two weeks thereafter.

In the event no objection is received from the petitioner within a week from the date as directed above, the Competent Authority will not be bound to discharge his obligations under Section 5 (supra).

This Court has not gone into the merits of the issue. The Competent Authority is

free to decide in accordance with law.

The reasoned order of the Competent Authority shall be communicated to the petitioner.

Leave to mention only if strictly necessary.

WP No. 8323 (W) of 2019 stands accordingly disposed of.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.