**(2014) 03 P&H CK 0160**

**In the Punjab And Haryana At Chandigarh**

**Case No :** C.W.P. No. 14096 of 2013

Ram Niwas APPELLANT

Vs

Competent Authority, GAIL India Ltd. RESPONDENT

**Date of Decision :** 03-03-2014

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 34
Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 — Section 10, 10(4), 3(1), 6, 9

**Citation :** AIR 2014 P&H 87

**Hon'ble Judges :** Surya Kant, J;Amol Rattan Singh, J

**Bench :** Division Bench

**Advocate :** Sharad Kumar Yadav, Sachin Mittal and Lokesh Sinhal, Advocate for the Appellant; O.S. Batalvi, Mukesh Verma and Mukesh Rao, Advocate for the Respondent

**Final Decision :** Partly Allowed

# Judgement

Surya Kant, J.—This order shall dispose of C.W.P. Nos. 14096, 14097, 14100, 14101, 14102, 16875, 16876, 16878, 16889, 16877 & 24315 of 2013 as common question of law and facts are involved in these cases. It may be mentioned at the outset that the controversy in these cases pertains to the award of compensation to the petitioners u/s 10 of the Petroleum and Minerals, Pipelines (Acquisition of Right of User in Land) Act, 1962 (in short, ''the 1962 Act'') as their land has been acquired for the purpose of laying the pipelines for distribution of Natural Gas through Chhanysa-Jhajjar pipeline. For brevity, the facts are being extracted from C.W.P. No. 14096 of 2013. The petitioners are residents of Village Raiseena, Tehsil Sohna, District Gurgaon. Their land has been admittedly acquired for laying the above-mentioned natural gas pipeline vide notification dated 01.02.2008 issued u/s 3(1) of the 1962 Act. The official notification u/s 6 was issued on 31.07.2008 followed by the awards dated 15.05.2009 and 10.08.2009. The Competent Authority appointed by the G.A.I.L. India Ltd. vide the abovestated Awards assessed the market value of the affected land at the rate of Rs. 67,15,000/- and Rs. 77,00,000/- per acre, respectively and consequently, granted compensation @ 10% of the abovestated value to the petitioners in terms of Section 10(4) of the 1962 Act. The dissatisfied petitioners sought reference u/s 10 of the 1962 Act which has been decided by the learned Additional District Judge, Gurgaon vide the impugned Award dated 18.02.2013.

2. Learned Additional District Judge-cum-Tribunal relied upon the sale deed dated 25.07.2007 (Ex. P5) and has determined the market value of the subject land to the tune of Rs. 1,02,51,000/- per acre. The Tribunal thereafter applied deduction of 20% of the base price of market value of the acquired land and consequently reduced its market value @ Rs. 82,00,000/- per acre. The petitioners have accordingly been held entitled to compensation @ 10% of the market value of Rs. 82,00,000/- per acre in accordance with Section 10(4) of the 1962 Act. Still aggrieved, the petitioners seek enhancement of compensation through these proceedings.

3. It may be mentioned at this stage that in the connected cases, the land pertains to village Khaintawas, Tehsil Farruknagar, District Gurgaon; Village Patli, Tehsil Farruknagar, District Gurgaon; and village Dhunela, Tehsil Sohna, District Gurgaon. Since the evidence comprising sale deeds or awards etc. for the assessment of market value of the land of abovementioned villages were different than the sale deed dated 25.07.2007 (Ex. P5) of village Raiseena, the Tribunal has assessed the market value of the acquired land of abovestated villages (other than Raiseena) at different rates. He has, however, applied 20% deduction on the base price in all the cases. It is after such deduction that 10% of the market value of the respective land has been granted as compensation to all the petitioners.

4. The common question of law raised on behalf of all the petitioners thus is whether the learned Additional District Judge-cum-Tribunal was justified in law in imposing deduction of 20% on the base price of the market value for the purpose of assessment of compensation u/s 10(4) of the Act?

5. For better understanding of the issue, it would be useful to reproduce the following observations made by the learned Additional District Judge-cum-Tribunal in his award dated 18.02.2013:--

19. Thus, the sale price of the sale deed Ex. P5 dated 25.7.2007 can safely be taken as base price for determination of the market value of the development and balancing the price due to sale of small area by exemplar sale deed which are required to be made in order to reach at appropriate market value of the land. Therefore, in the present case the deductions towards development which include keeping aside the area/space for providing development infrastructure, developmental expenditure and the waiting period cumulatively @ 10% and for balancing the sale consideration of comparatively small area sold in the exemplar sale deed in comparison to the acquired land @ 10% on the base price would be appropriate.

 

20. For these reasons, the base price on the basis of sale consideration shown in the sale deed Ex. P5 comes to Rs. 1,02,51,000/- per acre. After applying the deductions of 20% on the base price the market value of the acquired land at the time of notification u/s 3(1) of Act on 1.2.2008 comes to Rs. 82 lacs per acre. Therefore, the petitioners are entitled to receive 10% of the market value of Rs. 82 lacs per acre. Although there is no provision of grant of any interest on the enhanced amount of compensation in the Act yet there appears to be no bar of grant of interest u/s 34 of the Code of Civil Procedure. So, in the present case petitioners are entitled to the interest @ 6% per annum from the date of institution of petition till the payment of the decretal amount. This issue is decided accordingly in favour of the petitioners.

6. It thus appears that the learned Tribunal has viewed that deductions towards ''development of infrastructure'' and ''developmental expenditure'' need to be made to assess the actual market value of the subject land.

7. Having heard learned counsel for the parties and after going through the requisitioned record of the Tribunal, we are of the considered view that there was no justification whatsoever for the learned Additional District Judge-cum-Tribunal to apply the deduction of 20% on the base price of the market value. We say so for the reason that the laying of pipeline for the natural gas supply does not amount to development of infrastructure in the area where the land is located. It is not in dispute that the underground pipes have been laid and the land restored to its original condition for its restricted use to carry on the agricultural activities, subject to several other restrictions as per Section 9 of the Act. There is no finding by the learned Tribunal that the sale deed relied upon by the petitioners pertained to any developed area or that the sale instance related to the piece of land utilized for other purposes than the agricultural one. In the absence of such a positive finding, we are of the view that the sale instance relied upon by the learned Additional District Judge should have been accepted on their face value for the purpose of determination of the market value of the subject land without imposing any cut on the base price.

8. The fact of the matter is that the gas-pipeline once laid, becomes a serious impediment against development of the acquired land which cannot be used for any industrial, residential or commercial activity. There can thus be no occasion to incur any development expenditure.

9. For the reasons aforestated, we allow this writ petition in part; modify the award dated 18.02.2013 and hold the petitioners entitled to compensation @ 10% of the market value of their land assessed by the learned Additional District Judge-cum-Tribunal without imposing deduction of 20% on the base price of market value. The enhanced amount of compensation, as directed above, shall be released to the petitioners and other landowners-cum-proforma respondents within two months from the date of receipt of a certified copy of this order. Ordered accordingly.

 