
(2018) 05 GAU CK 0068
In the Gauhati High Court
Case No : WP(C) 437 of 2012

Rnt Plantations Limited

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 11-05-2018

Acts Referred:

Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 —
Section 10(2)

Citation : (2018) 05 GAU CK 0068

Hon'ble Judges : MANOJIT BHUYAN, J

Bench : Single Bench

Advocate : K K Bhattacharjee

Final Decision : Disposed Off

Judgement

1. Heard Mr. S.K. Kejriwal, learned counsel for the petitioner as well as Mr. G.N. Sahewalla, learned senior counsel representing respondent nos. 2

and 3, assisted by Mr. N. Anix Singh, Advocate. Also heard Mr. T.C. Chutia, learned counsel representing the respondent no. 4. There is none to

represent the respondent no. 1 i.e. the Union of India.

2. The petitioner company is the owner of Lukwah Tea Estate, located in the district of Sivasagar. Over the years substantial portion of the

petitioner's land had been taken over by the Oil & Natural Gas Corporation Ltd. (ONGCL) for drilling and other allied activities, including laying

of pipelines. In the present case we are concerned with land measuring 85 Bighas of Lukwah Tea Estate acquired by the Competent Authority for the

benefit of ONGCL. Reliefs prayed for are in respect of payment of the value of the land so acquired, the cost of tea bushes and compensation

towards loss of earnings.

3. The present writ petition was instituted claiming similar direction as in the Judgment & Order dated 05.09.2011 passed in WP(C) 4117/2011, the subject matter of which was also with regard to claim for compensation, as in the present case, but over another portion of land measuring 433 Bighas of the same Lukwah Tea Estate. The said writ petition was disposed of with direction to the Competent Authority-cum-Deputy Commissioner, Sivasagar to pass fresh order relating to compensation in respect of the 433 Bighas of land having regard to a tripartite agreement entered by and between the Competent Authority, the ONGCL and the petitioner company; the letter dated 07.10.2010 of the Additional Deputy Commissioner, Sivasagar the clarification issued by Tocklai Experimental Station, Jorhat dated 08.10.2010.

The said direction was made subject to the condition if the petitioner had not already availed the right of appeal before the Court of the District Judge, Sivasagar under the provisions of the Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. It is stated at the Bar that in respect of the order of the Competent Authority dated 11.11.2010 pertaining to compensation in respect of the 433 Bighas of land, appeal under Section 10(2) of the aforesaid Act was preferred and the same is pending adjudication before the said Court of the District Judge, Sivasagar.

4. Turning to the case in hand, it is seen that on 12.06.2010 a tripartite meeting between the representatives of the petitioner company, ONGCL and Competent Authority took place and in the said meeting an agreement was reached on the issue of compensation for the 85 Bighas of land. It is seen that the difference between the present writ petition and the earlier WP(C) 4117/2011 is only with regard to passing of award. Whereas an award was passed covering 433 Bighas of the land of the Tea Estate prior to filing of WP(C) 4117/2011, in the instant case the award was passed only during the pendency of the present writ petition. Copy of the award dated 21.06.2012 is enclosed as Annexure-A to the Affidavit filed by the respondent no. 3 on 10.08.2012.

5. A perusal of the Award dated 21.06.2012 shows that the rate of compensation in respect of land and tea bushes have been fixed at the same rate as earlier fixed in respect of 433 Bighas of land. The amount of compensation for loss of earning is not included in the Award dated 21.06.2012.

6. For the fact that the issue with regard to appropriate compensation in respect of 433 Bighas, which is contiguous land in the same Tea Estate, is

pending adjudication before the Court of the District Judge, Sivasagar, on appeal filed by the petitioner company under section 10(2) of the Act, this

Court is not inclined to pass any order pre-judging the merits of the claim of the petitioner before the same stands finally adjudicated before the

appellate forum provided under sub-section (2) of Section 10 of the aforesaid Act of 1962.

For the same subject matter involving the rate of compensation which may be legitimately due and payable to the petitioner in respect of land, tea

bushes and loss of earning, this Court refrains from going into the issue prior to any adjudication made by the Appellate Court i.e. the Court of the

District Judge, Sivasagar. Needless to say, decision rendered in the pending appeal in respect of the 433 Bighas of land, the same shall apply to the 85

Bighas of land as well. In view of the above, the present writ petition stands disposed of.