
(2009) 12 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17159 of 2009

Surat Singh and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-12-2009

Acts Referred:

Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 —
Section 10, 10(2), 10(4), 11, 3

Citation : (2010) 1 ILR (P&H) 868

Hon'ble Judges : Jora Singh, J; Hemant Gupta, J

Bench : Division Bench

Judgement

Hemant Gupta, J.—The petitioners have sought quashing of the notifications dated 13th September, 1980 and 3rd January, 1981 (Annexure P.1 and P.2), u/s 3 of the Petroleum and Minerals Pipelines Act, 1962 (for short "the Act"). The petitioners have also prayed that laying work of the pipelines through the land of the petitioners be stayed.

2. It is pleaded by the petitioner that the Indian Oil Corporation is planning to lay the pipelines through the land of the petitioners allegedly on the basis of the aforesaid notifications. Earlier in the year 1981, the pipes were laid through the land of the petitioners and compensation in lieu of standing crop was paid to them, but again the respondents have sought to lay pipelines without payment of adequate compensation. It is pointed out that the petitioners have been paid meagre amount on account of destruction of their standing crop and that the petitioners have been cheated by the respondent Corporation. The petitioner have pleaded to the following effect :-

11. That the petitioners have been deprived of compensation on account of acquisition of right in lieu of using their fertile lands and affecting their fertility, by paying the requisite compensation @10% of the market value of the land, as provided in the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962. Hence, a huge scam has been conducted by the respondent No.

2 in order to cheat the farmers right from Mathura (Uttar Pradesh) to Jalandhar (Punjab), falling within the vicinity of the project of respondent No. 2 known as "Mathura Jalandhar Pipeline Project.

3. The petitioners have also alleged that the provisions of the Act, have been violated as the declaration as required under Sub-Section 3 A of Section 6 of the Act, cannot be made after the expiry of three years from the date of publication of a notification under sub-section (1) of Section 3 of the Act, Therefore, it was alleged that the notification Annexures P.1 and P.2, are null and void and have no legal value.

4. In the written statement, it has been pointed out that the notifications Annexures P.1 and P.2 were issued u/s 3 of the Act. The declaration u/s 6(1) of the Act, was published on 13th June. 1981 and 22nd August. 1981.- vide notifications Annexures R.2/1 and R.2/2. The compensation for acquisition of right of way of the strip of 55" wide land, has been paid to the respective land owner during the period 1982-83. It is also pointed out that the present pipeline is being laid adjacent to the existing pipelines in the same right of way in respect of which, declaration has been published in the year 1981. It is also pointed out that the pipeline has to be laid on 111 kilometers length, whereas the work pertaining to 105 kilometres stands completed barring the four villages, namely. Chulkana, Kiwana. Namonda and Dodhpur. It is also pointed out that compensation for right of user in land as well as for damage to the crops and trees for laying Mathura-Jalandhar Pipelines, has already been paid to the land owners and interested persons in pursuance of the Award Annexure R..2/3 u/s 10 of the Act. It is averred that payment of land compensation is not contemplated as the same has been paid in pursuance of the Award Annexure R.2/3 whereas crop compensation shall be paid. It is also pointed out that some of the petitioners have taken crop compensation and in the land of some, even work has been completed, whereas in respect of the land of some land owners, the work has not been permitted to be completed.

5. In reply on merits, it has been averred that right of use has been acquired. -- vide notification Annexures P.1 and P.2 and that as per Sections 7 and 8 of the Act. the respondents have full right to enter into and do necessary work for the purposes of laying of pipelines through right of way so acquired.

6. Before considering the respective contentions of the parties, the scheme of the Act needs to be examined. u/s 3 of the Act, the Central Government can issue notification to acquire the right of use in any land under which such pipelines may be laid. The brief description of the land is required to be given in such notification. The substance of the notification is to be published as such place and in such manner as may be prescribed. On publication of preliminary notification u/s 3(1) of the Act. it is lawful for any person authorized by the Central Government or by the State Government or the Corporation which proposes to lay pipelines for transporting petroleum or any mineral and his servants and workmen to enter upon and survey the land in terms of Section 4

of the Act. Section 5 contemplates of filing of objections to the acquisition of right of user after the publication of notification under sub-section (1) of Section 3 of the Act. The decision on the objections shall be final in terms of Section 5(3) of the Act. After the decision on objections, declaration u/s 6 is published and the right of user in the aforesaid land is acquired. The relevant extracts of Section 6 of the Act read as under :-

6. Declaration of acquisition of right of use :

(1) Where objections under sub-section (1) of Section 5 have been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, that authority shall, as soon as may be, either make a report in respect of the land described in the notification under sub-section (1) of Section 3, or make different reports in respect of different parcel of such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government and upon receipt of such report the Central Government shall, if satisfied that such land is required for laying any pipelines for the transport of petroleum or any mineral, declare, by notification in the Official Gazette, that the right of user in the land of laying the pipeline should be acquired and different declaration may be made from time to time in respect of different parcels of the land described in the notification issued under sub-section (1) of Section 3 irrespective of whether one report or different reports have been made by the competent authority under this Section.

(2) On the publication of the declaration under sub-section (1), the right of user in the land specified therein shall vest absolutely in the Central Government free from all encumbrances.

7. After the declaration of vesting of the land u/s 6 of the Act, it is lawful for any person authorised by the Central Government, State Government or Corporation to enter upon the land and lay pipelines or to do any other act necessary for laying of pipelines in terms of Section 7 of the Act. The land is to be used only for laying of pipelines and for maintenance etc. The relevant extracts of Section 7 of the Act read as under:-

7. Central Government or State Government or Corporation to lay pipelines.

(1) Where the right of user in any land has vested in the Central Government or any State Government or Corporation u/s 6:-

(i) it shall be lawful for any person authorised by the Central Government or such State Government or Corporation, as the case may be, and his servants and workmen to enter upon the land and lay pipelines or to do any other act necessary for the laying of pipelines.

Provided that no pipeline shall be laid under:-

(ia) for laying pipelines for the transport of petroleum, it shall be lawful for any person authorised by the Central Government or Corporation to use such land for laying pipelines for transporting any mineral and where the right of user in any land has so vested for laying pipelines for transporting any mineral, which shall be lawful for such person to use such land for laying pipelines for transporting petroleum or any other mineral; and

(ii) such land shall be used only for laying the pipelines and for maintaining, examining, preparing, altering or removing any such pipelines or for doing any other act necessary for any of the aforesaid purposes or for the utilization of such pipelines.

(2) If any dispute arises with regard to any matter referred to in paragraph (h) or paragraph (c) of the proviso to clause (i) of sub-section (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

8. Section 9 of the Act restricts the use of land by owner and occupier so as to construct any building or any other structure, construct or excavate any tank, well, reservoir or dam or plant any tree on such land. Section 10 of the Act deals with the compensation for any damage, loss or injury sustained by any person interested in the land under which the pipelines is to be laid. Sub-section (2) of Section 10 of the Act contemplates that if the amount of compensation is not acceptable, the same shall be determined by the District Judge. Sub-section (4) of Section 10 contemplates that where the right of user of any land is vested in the Central Government, State Government or the Corporation, in addition to the compensation provided in sub-section (1), the Central Government, State Government or the Corporation shall be liable to pay the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at 10% of the market value of that land on the date of notification under sub-section (1) of Section 3 of the Act. Section 11 of the Act deals with the deposit of the amount of compensation and dispute in respect of apportionment of the amount of compensation.

9. From the pleadings of the parties, it transpires that the notifications Annexures P. 1 and P.2 are the notifications u/s 3 of the Act. The notifications u/s 6 of the Act are Annexures R.2/1 dated 26th May, 1981 and R.2/2 dated 22nd August, 1981. Such notifications declare that the right of user in the land specified in the schedule appended to the notification stands acquired for laying the pipelines. The award Annexure R.2/3 has determined the market value of the land on the date of issue of notification u/s 3(i) of the Act. Annexure R.2/5 is the Award dated 18th August, 2009 u/s 10 of the Act for payment of compensation of damages to crop of Rabi 2009 and Kharif 2009 on account of operations carried out u/s 7 of the Act and temporary severance of the land due to laying down of the pipelines. A sum of Rs.25,66,185 was arrived at as compensation for

the crops.

10. Learned counsel for the petitioners has produced copy of Roznamcha Wakayati for the year 1982-83 dated 17th April, 1982, to assert that possession of the land was handed over to the land owners on laying of the pipelines. It is thus, contended that once the possession has been restored, the respondents cannot use the land for laying of the pipelines without publication of the notifications u/s 3 and 6 of the Act and on payment of compensation determined u/s 10 of the Act.

11. Learned counsel for the respondents has argued that right to use strip of land measuring 55" stands acquired,--vide notifications Annexures R.2/1 and Annexure R. 2/2 in the year 1982. The compensation for the right to use such land has been paid to the land owners in terms of Award Annexure R.2/3. Therefore, once the right to use stands acquired, the land owners are entitled to the compensation for damage to the crop at any subsequent time. It is contended that the pipelines is being laid in the aforesaid strip of 55" and the compensation for damage to the crop has been assessed by the competent authority,--vide Annexure R.2/5. It is contended that if the land owners are not satisfied with the amount of compensation, they are entitled to dispute the same as per the manner provided under the Act. However, the laying of the pipelines cannot be interfered with as it is in the larger public interest.

12. A perusal of the record shows that right of user of the strip of the land measuring 55" vests with the Central Government and in favour of the Indian Oil Corporation. "The land owners have been paid compensation in respect of such right of user,--vide Annexure R.2/3. Since the right of user stands acquired, therefore, the land owners are not entitled to any compensation for acquisition of right of user over the same land. The damage to the crop has been compensated,--vide Annexure R.2/5. If the petitioners find that the amount of crop compensation is inadequate, they can raise dispute before the District Judge. However, it cannot be said that the land cannot be used for the purposes of laying of pipelines till compensation is determined by the District Judge and paid to the land owners.

13. Since the right of user of the land has already been acquired by the respondents in the year 1981, therefore, the respondents are entitled to lay another pipelines over an area, which was subject matter of acquisition Annexures P. 1 and R2 and R. 1 and R. 2. The petitioners are not justified in asserting that another acquisition process is required to be completed by the respondents for using of the land for the purposes of the laying the pipelines. Such land stands already acquired for the purposes of right of user in the year 1982. Copy of the Roznamcha Wakayati relied upon by the learned counsel for the petitioners, in fact, shows that after laying pipelines, surface area over the land in respect of which the respondents have acquired right of user reverted back to the land owners. Once, the land has reverted back, then the question of damage to the crops will arise and by virtue of Annexure R.3/5, compensation for

damage to such crop has been assessed. If the petitioners are aggrieved against such determination of the amount of compensation for damage to the crops, they are entitled to seek the same from the District Judge. But we do not find that there is any illegality or irregularity in the process of laying of pipelines by the respondents.

14. Hence, the present writ petition is dismissed.