
2009 eGLR_HC 10005537,2010 (1) GCD 771

Before the Hon'ble MR AKIL KURESHI, JUSTICE the Hon'ble MR. K S RADHAKRISHNAN, Chief Justice

RELIANCE GAS TRANSPORTATION INFRASTRUCTURE LIMITED Vs. STATE OF GUJARAT AND 72 -
RESPONDENT(S)

SPECIAL CIVIL APPLICATION No: 2252 of 2008 , Decided On: 13/07/2009

H.A. Raichura, Nanavati Associates, Devang Vyas, Sejal Mandavia, N.M. Kapadia, K.S. Nanavati, Keyur Gandhi, Rashmin M. Chhaya

MR. K.S. RADHAKRISHNAN

Since common questions arise for consideration in all these cases, we are disposing them by this common judgment.

Special Civil Applications Nos. 824 to 966, 5107, 4321 all of 2008 have been preferred by the landowners, challenging the Notification dated 17.11.2007 of the Central Government issued under Section 6(1) of Petroleum and Minerals Pipelines (Acquisition of right of User in Land) Act, 1962 (for short `the Act). The Notification was issued for allowing Reliance Gas Transportation Infrastructure Limited (for short `RGTIL) to lay underground gas pipelines in the lands bearing Revenue Survey/Block Nos. 341, 342, 364 and other Survey Nos. in village Gothan, Taluka Olpad, District Surat.

When the matter came up for hearing before us, learned counsel Mr. H.A. Raichura appearing for the petitioners submitted that some of the petitioners in Special Civil Applications Nos. 824 to 966, 5107, 4321 of 2008 have preferred to withdraw their petitions. The lists showing the names of the petitioners proposing to withdraw their petitions have already been taken on record and we are only concerned with the rest of the petitioners.

RGTIL has also filed SCAs Nos. 2252 & 3380 of 2008 challenging the order dated 29.03.2007 passed by the District Development Officer granting nonagricultural use permission with regard to some of the lands covered by the Notification issued under Section 3(1) of the Act and Miscellaneous Civil Application No. 1234 of 2008 in Letters Patent Appeal No. 253 of 2008 for review.

Learned counsel for the landowners fairly submitted that none of the petitioners have challenged the validity of Section 3(1) Notification. No grievance is also raised before us in

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these proceedings against the order passed passed by the competent authority under subsection (2) to Section 5 of the Act. Petitioners tried to raise a contention that no notice was given to the landowners, therefore, they could not effectively deal with the case for approaching the authority. Learned counsel for the petitioners submitted that because of laying of the pipelines large extent of land belonging to the petitioners is rendered useless. Learned counsel submitted that pipeline is already laid to industrial plots, with the result, it has affected the right of user of the petitioners, therefore, effectively they cannot construct any industrial sheds or use their property under which gas pipeline has been laid. Learned counsel submitted that respondents should, therefore, adequately compensate the petitioners.

Learned Senior Counsel appearing for the RTGIL submitted that in the absence of any challenge to Section 3(1) Notification, learned counsel for the petitioners is not justified in opposing the laying of pipelines by RTGIL as pipelines have been laid strictly in accordance with the provisions of Act. Learned counsel also submitted that petitioners would get adequate compensation as per rules, and if they have any grievance about inadequacy of compensation, they can always approach the District Judge under Section 10 of the Act.

We find that the pipelines have already been laid over the properties of the petitioners. Petitioners had not challenged at any point of time the Notification issued under Section 3(1) of the Act. Majority of the petitioners have withdrawn from the writ petitions as a whole. So far as remaining petitioners are concerned, it seems that their grievance is only about inadequacy of compensation. Section 10 of the Act specifically says that if any party has any grievance with regard to any damage, loss, injury or inadequacy of compensation, they can always approach the District Judge within the limits of whose jurisdiction the land is situated. Since effective remedy is provided under the Act, this Court under writ jurisdiction is not justified in expressing any opinion regarding various contentions raised by the petitioners, especially when Section 3(1) Notification has not been challenged and also due to the fact that pipelines have already been laid down.

In this connection, we may also refer to the decision rendered by the Apex Court in Competent Authority Vs. Barangore Jute Factory and others ((2005.13 SCC 477). Supreme Court was dealing with the scope of Section 3A(2),(1) & (3) of National Highways Act, 1956 (for short 'the National Highways Act). In that case though the Apex Court found sufficient justification in the plea of the parties that there was non compliance with subsection (2) of Section 3A of the National Highways Act. Apex Court granted the relief saying that the better course will be to compensate the landowners, rather than striking down the notification. Reference may be made to paragraph no.14 of the judgment:

"Having held that the impugned notification regarding acquisition of land is invalid because it fails to meet the statutory requirements and also having found that taking possession of the land of the writ petitioners in the present case in pursuance of the said notification was not in accordance with law, the question arises as to what relief can be granted to the petitioners. The High Court rightly observed that the acquisition of land in the present case was for a project of great national importance, i.e. the construction of a national highway. The construction of National highway with the acquired land has already been completed as informed

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to us during the course of hearing. No useful purpose will be served by quashing the impugned notification at this stage. We cannot be unmindful of the legal position that the acquiring authority can always issue a fresh notification for acquisition of the land in the event of the impugned notification being quashed. The consequence of this will only be that keeping in view the rising trend in prices of land, the amount of compensation payable to the land owners may be more. Therefore, the ultimate question will be about the quantum of compensation payable to the land owners. Quashing of the notification at this stage will give rise to several difficulties and practical problems. Balancing the rights of the petitioners as against the problems involved in quashing the impugned notification, we are of the view that a better course will be to compensate the land owners, that is, writ petitioners appropriately for what they have been deprived of. Interests of justice persuade us to adopt this course of action.

Since pipelines have already been laid, the grievance raised by RTGIL against the order granting nonagricultural permission has also become infructuous.

Under the circumstances, all these matters are disposed of with a direction that if the petitioners are aggrieved they can approach the concerned District Judge claiming compensation and obtain appropriate orders in accordance with law.

Appeal dismissed

