

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 6224 of 2019****FOR APPROVAL AND SIGNATURE:****HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL
and
HONOURABLE MR.JUSTICE D.N.RAY**

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Approved for Reporting	Yes	No
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USHABEN HARILAL NANDHA & ANR.**Versus****UNION OF INDIA & ORS.**

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Appearance:**MR VAIBHAV B SHUKLA(5563) for the Petitioner(s) No. 1,2****KSHITIJ M AMIN(7572) for the Respondent(s) No. 1****MR MASOOM K SHAH(6516) for the Respondent(s) No. 4****MR VISHWAS K SHAH(5364) for the Respondent(s) No. 2****MS. HETAL PATEL, AGP FOR the Respondent(s) No. 3**

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**CORAM:HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL****and****HONOURABLE MR.JUSTICE D.N.RAY****Date : 04/08/2026****ORAL JUDGMENT****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)**

Having heard the learned counsels for the parties and perused the record, we may note that the present petition has been filed with the following reliefs :-



"A. That this Hon'ble Court may be pleased to issue a writ of mandamus whereby directing the Respondent No. 2 to remove all its Pipeline laying and passing over the land of the Petitioners, being Revenue Survey No. 140 (New Survey No. 174) situated at Village Moti Khavdi, Jamnagar;

B. That this Hon'ble Court may be pleased to issue a writ of Mandamus, and thereby be pleased to quash the impugned Notification dated 6.12.2018 issued by the Union of India, Ministry of Petroleum, under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) 1962, in so far as it notifies and acquires the right of user over the land of the Petitioner i.e. Revenue Survey No. 140 (New Survey No. 174) situated at Village Moti Khavdi, Jamnagar;

C. That this Hon'ble Court may be pleased to direct the Respondent No. 2 to pay a sum of Rs. 86,00,000/- (Eighty Six Lack) to the Petitioner, being the amount of mense profit, compensation and damages, for trespassing and illegally using and laying down the petroleum pipeline over the land of the Petitioner being Revenue Survey No. 140 (New Survey No. 174) situated at Village Moti Khavdi, Jamnagar;

D. That pending hearing and final disposal of this Petition, this Hon'ble Court may be pleased to stay and/or keep in abeyance the operation, implementation and execution of the impugned notification dated 6.12.2018 issued by the Union of India, Ministry of Petroleum under Section 6(1) of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) 1962, in so far as it notifies and acquires the right of user over the land of the Petitioner i.e. Revenue Survey No. 140 (New Survey No. 174) situated at Village Moti Khavdi, Jamnagar;

E. That this Hon'ble Court be pleased to grant an Ex-parte ad interim relief in terms of Para 5(D);

F. That this Hon'ble Court may be pleased to award cost and special exemplary cost to the Petitioner;

G. Any other and further relief as may deem fit in the interest of justice may kindly be granted."

2. A categorical statement has been made in the writ petition to the effect that the acquisition notification dated 09.12.1998 under Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land Act), 1962 (in short 'Acquisition of Right of User Act, 1962') was published notifying acquisition of right of



user over the notified lands for laying down pipes for transportation of LPG through Jamnagar-Loni Pipeline (JNPL) Project by the respondent No.2, namely Gail (India) Ltd.. By the said notification, Revenue Survey Nos. 142, 143, 144, 145, 136 etc.. were notified for acquisition of right of user over the said pieces of lands. The compensation was determined under the award passed by the competent authority and payment was made to the land owners. Even revenue entry with regard to the respective lands reflecting the acquisition of right of user by the respondent No.2, Gail (India) Ltd., has been made in the revenue records.

3. The specific contention in the writ petition further is that the lands of the petitioners, i.e. Revenue Survey No. 140 (new Survey No. 174) situated at village Moti Khavad, Jamnagar was not included in the notification dated 09.12.1998 for acquisition of right of user. However, while laying the pipelines, the lands of the petitioners were utilised by the respondent No.2. They trespassed over the lands of the petitioners and laid underground pipelines without any acquisition, i.e. by adopting due process of law.

4. It is contended that the petitioners being illiterate females, were not aware of the action of the respondent No.2 and the consequence thereof. Only in the year 2016, they came to know about the acquisition of right of user by the respondent No.2, Gail (India) Ltd., when they applied for NA permission. It then transpired that there was underground pipeline laid by the respondent, Gail (India) Ltd. through the lands of the petitioners. The petitioners then wrote a letter to the respondent on 24.03.2016, pursuant to which the DILR was directed to verify the claim of the petitioner.



5. The office of the DILR carried out survey of the lands-in-question and submitted its report dated 25.06.2016, specifically acknowledging the fact that the pipelines of the respondent No.2 was passing over the lands of the petitioners. It is the case of the petitioners that after getting the DILR report they were continuously approaching the respondent asking them to remove the illegally laid pipelines from the lands of the petitioners, nothing was done, the petitioners also issued notice dated 29.12.2018 demanding for removal of the illegal pipelines.

6. In the meantime, the petitioners had received a communication dated 04.01.2019 from the respondent No.2, intimating them about the acquisition of right of user over the lands of the petitioners pursuant to a preliminary notification dated 02.07.2018 issued under Section 3 of the Acquisition of Right of User Act, 1962 and final notification dated 06.12.2018 under Section 6 of the said Act. It is categorically stated in the writ petition that the aforesaid notifications were issued for laying parallel pipelines to the one existing and hence representation was sought from the petitioners vide communication dated 04.01.2019 for fixing the amount of compensation.

7. The stand in the writ petition is that the petitioners were not aware of the acquisition notifications dated 05.07.2018 or 06.12.2018 whereby right of user in the lands-in-question is sought to be acquired for laying parallel pipeline. The prayer in the writ petition is to issue directions to the respondents to remove the pipelines and further to quash the notifications for acquisition of right of user.

8. Thus, the petitioners are raising two fold grievances in the



writ petition:- Firstly about the pipeline laid by the respondent No.2, Gail (India) Ltd. much earlier while undertaking the work of laying pipeline in the adjacent land acquired vide notification dated 09.12.1998 and secondly the challenge is to the acquisition notifications dated 05.07.2018 and 06.12.2018 for laying of parallel pipeline on the ground that the petitioners were not aware of the said notifications and came to know about the same only on receipt of a notice dated 04.01.2019 from the respondent No.2 asking the petitioners to collect the compensation. The prayer made in the writ petition is to pay not only compensation but *mense profit* as well, and the damages for trespassing and illegal use for laying of petroleum pipeline over the lands bearing survey No. 140/new survey No. 174 situated at village Moti Khavdi, District Jamnagar.

9. In reply to the aforesaid stand of the petitioners in the writ petition, an affidavit dated 01.07.2019 was filed on behalf of the respondent No.2 by the General Manager (Operation and Maintenance), Gail (India) Ltd.. It is pertinent to note that there is no parawise reply to the contents of the writ petition and it is admitted therein that the right of user in the lands-in-question was notified in the year 1998-1999, however, actually pipeline was laid in the year 2007-2008, i.e. almost after 10 years from the date of acquisition of the right of user. It is submitted therein that over the period of 10 years, there were permanent construction came in over the notified area, but the pipeline laying Crew [(Gail (India) Ltd.)] was totally unaware about it and hence, the adjacent land of the petitioners which was a barren land with Babul trees were considered as the notified area and the pipeline was laid thereon.

10. It is stated that no permanent construction was existing over the lands of the petitioners and that there was no



obstructions/resistance from the land owners in 2007-2008. It is also admitted that after laying of 6 inches pipeline by 2007-2008, patrolling of pipeline was started and continued without any resistance from the land owners till the year 2015-2016, i.e. almost 8 years from the laying of pipelines. For the first time, notice was issued to the answering respondent No.2 by the land owners in the year 2015-2016 stating that some pipeline seems to be passing through from their lands, which was later confirmed in the DILR report prepared in the year 2015-2016. The contention is that by the time, i.e. in the year 2015-2016, the new project of laying another pipeline of 8 inches had also started and the final notification was published on 06.12.2018 in the Government of India Gazette. The award for compensation of the acquired land vide notification dated 06.12.2018, has been prepared by the competent authority.

11. It is sought to be contended that the LPG pipelines starts from the State of Gujarat and goes upto the National Capital Region (NCR) area supplying LPG to OMCs with the sole objective of supplying cooking LPG to each and every house under the Prime Minister Ujwala Scheme and hence, removal of operational LPG Pipeline is technically not feasible and the contention is that a single land owner whose land was utilised in the year 2007-2008, does not have any right to put on hold the project of National importance. It is for the competent authority to grant appropriate compensation in accordance with law to land owners.

12. With regard to the award made pursuant to the acquisition notification dated 06.12.2018, it is submitted that in case of any dispute about the computation made by the competent authority, it is open for the land owners to approach the appellate authority



under the Acquisition of Right of User Act, 1962.

13. Taking note of the contentions made in the writ petition as well as the affidavit filed on behalf of the respondent No.2, atleast, it is evident that there is an admission on the part of the respondent No.2, Gail (India) Ltd. of illegal utilisation of lands of the petitioners in the year 2007-2008 for the purposes of laying of pipeline when there was no notification for acquisition of right of user with respect to the lands of the petitioners under the Acquisition of Right of User Act, 1962.

14. The statement in the affidavit of the respondent No.2 that the lands of the petitioners were alternatively used as permanent constructions had come up over the acquired lands in the gap of almost 10 years, is attributable to the respondent No.2 only. In any case, if it was not feasible for the respondent No.2 to lay pipeline as per the Acquisition of Right of User over the land acquired under the notifications published in the year 1998-1999. The respondent was required to initiate proceedings for issuance of a fresh notification for acquisition of the lands, including the lands of the petitioners herein.

15. As this has not been done, we have reached at an irresistible conclusion that the respondent No.2 has utilised the lands of the petitioners in the year 2007-2008 without any due process of law. For acquisition of right of user in the land of the petitioner by utilising it in the year 2007-2008, without any acquisition notification under the Act, 1962, the illegality committed by the respondent No.2, Gail (India) Ltd., cannot be regularised, inasmuch as, the petitioners have been deprived of their right of full utilisation of lands-in-question, a right protected under the



Constitution of India by virtue of Article 300A. 11. The question, however, is as to how the grievance of the petitioners can be re-addressed. As the pipelines have been laid in the year 2007-2008 and they are LPG Pipelines connecting a major parts of the country, we do not find it feasible to grant the first prayer in the writ petition for removal of pipelines though illegally laid by the respondent No.2 Gail (India) Ltd.. However, to compensate the petitioners, an acquisition is required to be initiated by the respondent Gail (India) Ltd. treating the date of filing of the writ petition, as 27.03.2019 to be the date of Section 3A notification, for the purposes of determination of the market value of the lands-in-question. Meaning thereby, the acquisition notifications though are required to be issued now, but the date of determination of the market value shall be 27.03.2029 when the present writ petition was filed before this Court for raising a dispute with regard to the illegal utilisation of their land for the purpose of laying of pipeline.

16. The process of acquisition of right of user in the lands-in-question with respect to the pipeline laid in the year 2007-2008, under the Act 1962 shall have to be completed within a period of three months from today and the award qua the right of user of the lands-in- question for laying of pipelines in the year 2007-2008, shall be declared by the competent authority by computing the market value of the lands-in-question as on 27.03.2019. All other benefits towards compensation for acquisition of the Right of user including interest on compensation from the date of dispossession till the date of payment of compensation, shall be included in the award. The disbursement of compensation so computed, shall be made after due verification of the land owners / persons interested in the lands-in-question.



17. As regards the challenge to the acquisition notification dated 06.12.2018 issued for the parallel pipelines under the Act, 1962, we do not find any good ground to sustain the said challenge in the writ petition. Suffice it to say that though there is a statement in the affidavit of the respondent No.2 that the award for compensation qua the lands-in-question has been declared by the competent authority, but the date of the award has not been disclosed therein.

18. Be that as it may, it is open for the petitioners to approach the competent authority for disbursement/payment of compensation under the award declared with respect to the acquisition of right of user in the lands-in-question by virtue of the notification dated 06.12.2018 published under Section 6(1) of the Act, 1962. It is also open for the petitioners to approach the appellant authority under the Act' 1962, in case, they are aggrieved by the determination of compensation made in the award.

19. With the above observations and directions, the present petition stands disposed of with no order as to costs.

20. However, it is clarified that in case of non-observation of directions contained in this order, it would be open for the petitioners to approach this Court again.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

C.M. JOSHI