THE HIGH COURT OF TRIPURA
AGARTALA

CRP. No. 12 of 2016
CRP. No. 142 of 2015
CRP. No. 50 of 2015
CRP. No. 54 of 2015
CRP. No. 54 of 2016
CRP. No. 59 of 2016

CRP. No. 12 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi - 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West Tripura, District: West Tripura, Pin: 799014

……Petitioners

- V E R S U S -

1. Shri Biplab Deb Roy,
son of late Rabindra Ch. Deb Roy, resident of Krishnagar, Natun Palli, Agartala, P.O. Agartala, P.S. West Agartala, District: West Tripura

2. Smt. Sikha Rani Dey (Deb Roy),
wife of Shri Bpilab Deb Roy, resident of Krishnagar, Natul Palli, Agartala, P.O.: Agartala, P.S. West Agartala, District: West Tripura

…..Respondents

3. The Competent Authority (ROU), Oil and Natural Gas Corporation Limited, Quarter No. B-78, South Colony, P.O. Badharghat, P.S. Amtali, Agartala, District: West Tripura,Pin-799014

…..Pro-respondent

For the petitioners : Mr. S. Deb, Sr.Advocate
Mr. R. Dasgupta, Advocate
For the respondents : Mr. J. P. Saha, Advocate

CRP. No. 142 of 2015

1. Smti. Anita Barman,
wife of Sri Haradhan Barman, resident of Anandanagar, P.S. Sreenagar, District: West Tripura

……Petitioner

-VERSUS-

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi – 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014

4. The Competent Authority (ROU), Oil and Natural Gas Corporation
Limited, Quarter No. B-78, South Colony, P.O. Badharghat,
P.S. :Amtali, Agartala, District: West Tripura,Pin-799014

…….Respondents

Date of hearing : 21.07.2016

For the petitioners : Mr. J. P. Saha, Advocate

For the respondents : Mr. R. Dasgupta, Advocate

CRP. No. 50 of 2015

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi – 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West
Tripura, District: West Tripura, Pin: 799014

……Petitioners

-VERSUS-

1. Shri Amar Chand Debnath,
son of late Harendra Chandra Debnath, resident of Madhupur,
P.S. Bishalgarh, P.O. Bishalgarh, District: Sepahijala

…….Respondent

2. The Competent Authority (ROU), Oil and Natural Gas Corporation
Limited, Quarter No. B-78, South Colony, P.O. Badharghat,
P.S. Amtali, Agartala, District: West Tripura,Pin-799014

…….Pro-respondent

For the petitioners : Mr. S. K. Deb, Sr.Advocate
Mr. R. Dasgupta, Advocate

For the respondents : Mr. B. Choudhury, Advocate

Mr. J. P. Saha, Advocate
Mr. P. B. Dhar, Advocate

CRP. No. 54 of 2015

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi – 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
Badharghat P.O. Arundhutinagar, P.S. Amtali, Agartala, West Tripura, District: West Tripura, Pin: 799014

……**Petitioners**

-VERSUS-

1. Shri Najen Marak,
son of Tirendra Marak, resident of Nagichara, Anandanagar,
P.S. Sreenagar, District: West Tripura.

2. Smt Sabita Marak alias Sabita Laxmi,
wife of Sri Najen Marak, resident of Nagichara, Anandanagar,
P.S. Sreenagar, District: West Tripura

…….**Respondents**

3. The Competent Authority (ROU), Oil and Natural Gas Corporation Limited, Quarter No. B-78, South Colony, P.O. Badharghat,
P.S. Amtali, Agartala, District: West Tripura,Pin-799014

…….**Pro-respondent**

Date of hearing : 24.06.2016

For the petitioners : Mr. S. K. Deb, Sr.Advocate
Mr. R. Dasgupta, Advocate

For the respondents : Mr. B. Choudhury, Advocate
Mr. J. P. Saha, Advocate
Mr. P. B. Dhar, Advocate

CRP. No. 54 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi – 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
P.O. Badharghat, District: West Tripura, Pin: 799014

4. Competent Authority (ROU), ONGC Ltd.,
Qtrs. B-78, South Colony, P.O. Badharghat, Agartala, District: West Tripura, Pin: 799014

……Petitioners

- VERSUS -

1. Shri Chandra Sekhar Debnath,
son of Sri Birendra Kishore Debnath, resident of East Nalchar,
P.S. Melaghar, District: Sepahijala, Tripura

…….Respondent

For the petitioners : Mr. S. M. Chakraborty, Sr.Advocate
Mr. S. Saha, Advocate
For the respondent : None

CRP. No. 59 of 2016

1. The Oil and Natural Gas Corporation Ltd.,
Jeevan Bharati Building, New Delhi - 110001

2. The Chairman cum Managing Director, ONGC Ltd.,
7th Floor, Jeevan Bharati Building, New Delhi- 110001

3. The Asset Manager,
Oil and Natural Gas Corporation Ltd.,Tripura Asset, Agartala,
P.O. Badharghat, District: West Tripura, Pin: 799014

4. Competent Authority (ROU), ONGC Ltd.,
Qtrs. B-78, South Colony, P.O. Badharghat, Agartala, District:
West Tripura, Pin: 799014

……Petitioners

- VERSUS -

1. Shri Pranay Bhusan Debnath,
son of Sri Birendra Kishore Debnath,
resident of East Nalchar, P.S. Melaghar, District: Sepahijala,
Tripura

…..Respondent

Date of hearing : 20.06.2016

For the petitioners : Mr. S. M. Chakraborty, Sr.Advocate
Mr. S. Saha, Advocate
For the respondent : None.

BEFORE
THE HON'BLE MR. JUSTICE S. TALAPATRA

Date of delivery of Judgment
and order : **29.09.2016**
Whether fit for reporting : **YES**

Judgment and Order(CAV)

All these petitions filed under Article 227 of the Constitution of India being CRP. 12 of 2016 [Smt. Anita Barman v. ONGC Ltd. and Others], CRP. 142 of 2015 [ONGC Ltd. And Others v. Sri Biplab Debroy and Others], CRP. 50 of 2015 [ONGC Ltd. and Others v. Najen Marak and Others], CRP. 54 of 2015 [ONGC Ltd. and Others v. Amarchad Debnath and Another], CRP. 54 of 2016 [ONGC Ltd. And Others v. Pranay Bhusan Debnath] and CRP. 59 of 2016 [ONGC Ltd and Others v. Sri Chandra Sekhar Debnath] are clustered for disposal by a common judgment inasmuch as either the claimants or the requiring agency have questioned the judgments on certain common aspects viz,

(A) whether the application filed under Section 10 (2) and (3) of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, hereinafter referred to as the Act was barred by limitation by operation Rule 5 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules 1963, hereinafter referred to as the Rules, which provides as follows:

> **"5.Application to the District Judge for determination of compensation- Any party aggrieved by the determination of the amount of compensation may prefer an application to the District Judge within the limits of whose jurisdiction of land or any part thereof is situated, not later than ninety days of the receipt of the limitation from the competent authority under rule 4(3)".**

(B) Whether the assessment of damages or loss sustained by the person interested in the land as made by the District Judge is

within the limit as prescribed by Section 10(3) of the Act which postulates as under:

> **(3) The competent authority or the District Judge while determining the compensation under Sub-Section (1) or Sub-Section 92), as the case may be, shall have due regard to the damage or loss sustained by any person interested in the land by reason of**
>
> **(i) The removal of tress or standing crops, if any, on the land while exercising the powers under Section 4, Section 7 or Section 8;**
>
> **(ii) The temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person; or**
>
> **(iii) Any injury to any other property, whether movable or immovable or the earnings of such persons caused in any other manner:**

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the notification under Sub-Section (1) of Section 3, and

(C) whether these petitions are maintainable within the jurisdictional limits of Article 227 of the Constitution exercise of which power is regulated broadly by the following principles:

> **(a) High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as restrained on the exercise of this power by the High Court.**
>
> **(b) The parameters of interference by High Courts in exercise of its power of superintendence have been repeatedly laid down by this Court. In this regard, the High Court would required to follow the principles laid down by the Constitution Bench of this Court in Waryam Singh and another vs. Amarnath and another, [AIR 1954 SC 215] as the principles in Waryam Singh (supra) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.**

(c) According to the ratio in Waryam Singh (supra) , followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and Courts su8bordinate to it, 'within the bounds of their authority'.

(d) In order to ensure that law is followed by such tribunals and Courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(e) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of tribunals and Court subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(f) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(g) High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in the case of L. Chandra Kumar vs. Union of India & others, reported in (1997) 3 SCC 261 and therefore agreement by a Constitutional amendment is also very doubtful.

(h) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(i) The power is discretionary and has to be exercised on quotable principle. In an appropriate case, the power can be exercised suo motu.

(j) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(k) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and Courts subordinate to High Court.

> **(l) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject high degree of judicial discipline pointed out above.**
>
> **(m) An improper and a frequent exercise of this power will be counter-productive and will divest this extraordinary power its strength and vitality. [As formulated in Shalini Shyam Shetty and Another v. Rajendra Shankar Patil, reported in (2010) 8 SCC 329]".**

[2] For purpose examining those aspects and other ancillary aspects of the individual petitions under consideration minimal essential facts would be laid against each of the petitions. Before the minimal essential fact and the challenge in the individual petitions are laid, it would be apposite to go down to the objects of the said Act. For the development of petroleum resources in the country, it was anticipated that there would be substantial increase in the production of crude oil, natural gas and petroleum products by the public sectors oil fields and refineries in India. As a result of the implementation of plan for the development of the petroleum resources it becomes necessary to lay petroleum pipelines since petroleum pipelines are to be laid under-ground, out right acquisition of land not necessary. It is considered sufficient to acquire the mere right of the use in the land for laying and maintaining the pipe lines. The bill for that act was introduced in the parliament. While stating the objects and reason for that Act, it was observed as under:

> **"2. Although land can be acquired outright for laying such pipelines under the Land Acquisition Act, 1894 the procedure for such acquisition is long-drawn and costly. Since the petroleum pipelines will be laid underground**

outright acquisition of land is not necessary. Therefore, in the case of these pipelines it is considered sufficient of acquire the mere right of user in the land for laying and maintaining the pipelines. The Bill seeks to achieve the above purpose.

3. The main features of the Bill are:

(i) No right of user of land can be acquired for the purpose of laying pipelines unless the Central Government declares its intention by notification in the Official Gazette, and unless objections, if any, filed within twenty-one days of that notification are disposed of by the competent authority.

(ii) When final declaration about acquisition is made the right to use land for the purpose of laying pipelines will vest in the Central Government, State Government or the corporation, as the case may be but notwithstanding such acquisition, the owner or occupier of the land shall be entitled to use the land for the purpose for which such land was put to use immediately before the declaration by the Central Government. But after the date of acquisition he shall not construct any building or any other structure or construct or excavate any tank, well, reservoir or dam or plant any tree, on that land.

(iii) Compensation for the damage, loss or injury sustained by any person interested in the land and shall be payable to such person. Besides this, compensation calculated at ten percent of the market value of the land on the date of the preliminary notification is also payable to the owner and to any other person whose right of enjoyment in the land has been affected by reason of the acquisition. The compensation in both cases is to be determined by the competent authority in the first instance and an appeal lies from its decision to the District Judge.

[3] In the Para-3 of the statement of objects and reason it was proposed that the compensation in both cases is to be determined by the competent authority in the first instance and the appeal would lie from its decision to the District Judge. But when the Act was enacted in the parliament, a detail procedure of such acquisition of right of user in land has been laid down in Sections 3, 4, 5, 6 , 7, 8, 9 dealing with publication for notification for acquisition, power to enter or survey etc., hearing of objection by any person interested in the land, declaration of acquisition of right of user, the vesting of the land either in the Central Govt., or in the

State Govt., or in the corporation to lay pipelines, power to enter the land for inspection and restrictions regarding the use of land. Section 10 of the Act deals with compensation. Sub-section 1 of Section 10 of the said Act provides that any damage, loss or injury is sustained by any person interersted in the land under which the pipeline is proposed to be or is being or has been laid by the Central Govt. State Govt. or the corporations like the ONGC Ltd, as the case may be, shall be liable compensation to such person who has suffered such damage, loss or injury, however, the amount which shall be determined by the competent authority in the first instance.

[4] Subsection (2) of section 10 further provides that if the amount of compensation determined by the competent authority under subsection (1) is not acceptable to the parties, the amount of compensation shall on application by other of the parties to the District Judge within the limits of its jurisdiction, the land or any part thereof, is situated can be redetermined by that District Judge. So what was proposed by the Bill has not been entirely retained in the Act. The person interested who has not accepted the compensation as determined by the Competent authority may petition before the District Judge for determining the compensation having due regard to the damage or loss sustained by any person interested in the land.

[5] We have already referred subsection 3 of section 10 of the Act.The said subsection 3 of section 10 provides that removal of

trees or standing crops, if any, on the land while exercising the powers under Sections 4, 7 or 8 or the temporary severance of the land under which the pipelines has been laid from other land belonging to or in the occupation of such person; or any injury to any other person, whether movable or immovable or the earning of such person caused in any other manner are treated to be relevant factors for determining compensation.

[6] As already provided, if the structure for improvement made after notification made under Section subsection 1 of Section 3 of the Act shall not account for compensation. Sub-sections 4, 5 and 6 of section 10 of the said act provide thus:

> **"4. Where the right of user of any land has vested in the Central Government, the State Government or the Corporation, as the case may be, shall, in addition to the compensation; if any, payable under sub-section (1), be liable to pay to 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 ten percent of the market-value of that land on the date of the notification under sub-section (1) of Section 3.**
>
> **5. The market-value of that land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall on application by either of the parties to District Judge referred to in subsection (2), be determined by that District Judge.**
>
> **6. The decision of the District Judge under sub-section (2) or subsection (5) shall be final."**

[7] Now this Court, would lay the relevant fact and the specific challenge in the individual petitions with submission made during hearing by the counsel representing the parties, one after another for purpose of curving out common question and the

question specifically raised in any individual case and response thereof to the extent as is required.

CRP. 12 of 2016
[Oil and Natural Gas Corporation Ltd. v. Biplab Deb Roy & Others.]

[8] By this petition judgment dated 17.11.2015 delivered in Civil Misc (PMP)36 of 2014 has been called in question by the requiring corporation.

[9] It is admitted position that the petitioners for purpose of laying pipeline for transportation of gas from Nimbutali to Konaban in the Tripura State acquired the right of use of a part of the land belonging to the respondents comprised in the Khatian No. 1/20 of Mouja Konaban under Bishalgarh Sub-division, measuring 0.15 acr. Under Provisions of Section 3(1) of the Act the respondents No. 1-2 filed written objection. As per provisions of Section 3(1) and (2), the competent authority by the order dated 16.01.2012 determined compensation for the damage at Rs. 8640/-. For purpose of determining the damage, the amount assessed for per rubber tree was Rs. 288/- and no compensation was paid for use of the land. The respondents No. 1-2 claimed compensation at Rs. 10,000/- per rubber tree and for the land 10,00,000/-per kani before the District Judge, West Tripura Agartala by filing an application under Section 10(2) of the PMP Act being Civil Misc PMP 36 of 2014. It is also admitted position that the award in question was passed on 16.01.2012 but the said application for enhancing the

compensation under Section 10 (2) of the PMP Act was filed on 16.01.2010 and hence an objection was raised regarding maintainability of the said application in view of Rule 5 of the PMP Rules as quoted above. The period for limitation as prescribed thereof is 90 days. The said objection was rejected by the District Judge holding that intimation from the competent authority under Rule 3 of the PMP rules must be comprehensive and unless comprehensive communication is received, the limitation cannot start running. The respondents No. 1 and 2 urged for enhancement of the damage on the basis of capitalized value of a rubber tree. It has been observed that as per Exhibit-3, latex yielding starts in the 7th year and value of each tree at that time is calculated at Rs. 7143/-. However, in the Exhibit-4, the value of a tree in the first year is shown Rs. 7043/-. So in Exhibit-4, the first year be treated as the 7th year. The Exhibit reflects 6-7 years. The District Judge while passing the impugned judgment dated 17.11.2015 in Civil Misc PMP 36 of 2014 was of the opinion that in accordance with the Exhibit-4, the value of tree of 6-7 years old may be assessed at Rs. 5506/- on making an average of the rates available. But on account of the land, no compensation was given as the respondents No. 1-2 herein could not prove the value of the land. They are not entitled to get any compensation on that account. Hence, it has been directed that the respondents No. 1-2 shall get Rs. 5506/- per rubber tree. If the amount is not paid within 60 days from the date of the judgment, the total compensation as would be calculated upon

would carry interest at 6% per annum from the date of expiry of 45 days from the day of order till realization. This finding is under challenge in this petition.

[10] Except the question of limitation in this petition, some other ancillary objections have been raised. Those were not taken before the court of the District Judge. Mr. Deb, learned senior counsel appearing for the petitioners by producing the records has stated that the reference was initially attended by the Land Acquisition Judge, West Tripura, Agartala. By the order 14.09.2012, the said case was transferred to the file of the LA Judge, Court No. 5, West Tripura Agartala for disposal according to law. From the orders dated 16.11.2002, 1.12.2012, 21.01.2013, 28.02.2013, 04.04.2013, 10.05.2013, 12.06.2013, 19.07.2013, 06.09.2013, 15.11.2013, 11.03.2014 and 15.05.2014, it would be apparent that the application under Section 10(2) of the PMP Act was treated as the reference under section 18 of the LA Act and the case was registered as Misc LA 258/2011. But on 02.07.2014, the District Judge registered the case as Civil Misc 7(PMP) of 2013 and started the proceeding for disposal under section 10(2) of the PMP Act. Mr. Deb, learned senior counsel has submitted that before 02.07.2014 no case was registered under section 10 (2) of the PMP Act. It is a clear error or non-exercise of the jurisdiction vested by law, committed by way of non-application of mind by the District Judge. For this, the respondents No. 1-2 or the claimant cannot suffer any prejudice. The corrective course as adopted by the

District Judge shall be deemed as if the said application under section 10(2) was registered as Misc (PMP) Case w.e.f. 14.09.2012 for all purposes. The objection as raised in this regard is without any substance as the maxim goes that for the mistake committed by the court nobody shall suffer. Mr. Deb learned senior counsel has raised another issue within the province of estoppal. According to him, from the document dated 01.01.2012 it would be apparent that the respondent No. 1 claimed Rs. 288 per rubber tree. The said document, as it appeared on scrutiny of the records, was not admitted in the evidence at the instance of the petitioners. For the first time, it has been annexed with this petition. Again Mr. Deb learned senior counsel has raised further objection on the basis of the no objection (Exhibit-E). According to him, that would operate as estoppal as the respondents No. 1 and 2 had accepted the money on 16.01.2012 which is apparent from Exhibit-H document. On scrutiny of the Exhibit-H, it appears that the respondent No. 1 received the compensation on account of the land and for crops by receiving two cheques dated 16.01.2012. But from the no objection, Exhibit-E it does not appear that he had waived his right to claim the appropriate compensation for damages. The relevant part of the no objection reads as under:

> **" I have received the cost of acquisition as 10% of the land cost of the present market value and have no objection laying gas pipeline".**

[11] This cannot create estoppel against the respondent No. 1 and that objection does not have any substance at all. The

objection relating to the limitation would be attended in the subsequent part of the judgment.

CRP 142 of 2015
[Smti.Anita Barman & Others v.Oil and Natural Gas Corporation Ltd. and Others]

[12] By means of this petition, the judgment dated 24.09.2015 delivered in Civil Misc(PMP) 34 of 2014 by the District Judge, West Tripura, Agartala has been called in question by the claimant.

[13] The facts which are not in dispute are that by the notice dated 12.05.2011 under Section 3(1) of the PMP Act the land measuring 1.10 acre was sought to be taken over for purpose of laying pipelines for supply gas to the Palatana Project. The petitioners in this petition filed objection under section 5(1) and (2) of the PMP Act. By the order dated 05.12.2011, the compensation to the tune of Rs. 54,120/- was assessed on the basis of the rates which are as follows: (a) for segun tree Rs. 800/- per tree, (b) for banana plants Rs. 18/- per plant, (c)for rubber tree, Rs. 246/- per tree and (d) for bamboo fencing Rs. 10,000/-. The petitioner had suffered in the process, damage of one segun tree, 15 banana plants, 175 rubber trees and a part of the bamboo fencing as stated. By filing the application under section 10(2) of the PMP Act, the petitioner claimed compensation on the basis of the rates as follows: (a) Rs. 10,000/- per rubber tree (b) Rs. 100/-for the banana plant and (c) for the land - Rs. 10,00,000/- per kani. The respondents No. 1-3

herein, had raised objection as to the limitation and non-joinder of the necessary parties. The District Judge held that the application under section 10(2) of the PMP act was not maintainable having been barred by limitation in term of Rule 5 of the PMP Rules which prescribes the period of limitation at 90 days from the day of receipt of the intimation from the competent authority and Rule 4(3) of the PMP rules, the District Judge has observed that it does not prescribe in what manner that intimation shall be given. In the case in hand, as the petitioner received the cheque on 23.01.2011, it has been held that she had adequate information about the order that was passed on 05.12.2011 as she received the cheque on 23.12.2011. The application was filed on 10.09.2012. Thus, it has been held by the District Judge as follows:

> **"The object of Rule 5 and Rule 4(3) in question as it appears, is to bring to the notice of the claimant that assessment of compensation has been made. The PMP Rules does not provide in what manner that information shall be given. In the case in hand, in view of receipt of the cheque on 23.12.2011 by the claimant as reflected above, the only logical conclusion is that she got the information that the order was passed on 05.12.2011. The case not being filed within 90 days of this, in view of Rule 5 of the PMP Rules, the case is barred by limitation and is not maintainable."**

[14] Mr. J. P. Saha, learned counsel appearing for the petitioner has urged that there is no averment in this regard in the written objection filed by the respondents No. 1, 2 and 3. From Exhibit-G, part of the acquittance roll, it appears that on 23.12.2011 the petitioner received the payment of compensation and no-objection statement was filed (Exhibits-A/H) by stating that he has no objection for laying the gas pipeline. It appears from the records

that no objection is a format supplied by the respondents No. 1, 2 and 3. Since the application was held to be barred by limitation, no exercise was taken to assess the damage/compensation, even though materials were laid towards that end. The question relating to limitation would be attended by this Court in the subsequent part of this judgment.

CRP 50 of 2015
Oil and Natural Gas Corporation Ltd. & Others v. Amar Chand Debnath & Others

[15] By this petition the judgment dated 27.01.2015 delivered in Civil Misc PMP 67 of 2014 by the District Judge, West Tripura has been called in question by the requiring corporation. Essential facts leading to this petition are that the respondent No. 1 is the owner in possession of the plot No. 439/P under Khatian No. 945 of Mouja Konaban under Bishalgarh subdivision since 10.12.2001 when he purchased the said land. He planted teak trees and fruit bearing trees [Mango and jack fruits]. Out of the said land, the land measuring 0.94 acre was necessary, according to the petitioners, for laying pipelines to transport natural gas for the thermal project in Palatana. The right of user was acquired following the due process. According to the respondent No. 1, referred before as the claimant, all the teak trees grew up to 4 ft. i.e. 1-3 cm. The respondent No. 1 claimed Rs. 1,10,25,000/- for damage of 1270 teak, 250 mango and jack fruit trees. Further, he claimed Rs. 7,500/- per teak tree and for the land Rs. 10,00,000/- per acre but the competent authority by the order dated 14.02.2012 ordered

payment of compensation to the extent of Rs. 7,92,725/- as compensation for the land and trees. Being dissatisfied with the said assessment of compensation, the respondent No. 1 filed the application under section 10(2) of the PMP Act in the court of the District Judge. By filing the written objection the petitioner No. 1 raised the objection as to the maintainability of the claim, as according to them, it was barred by limitation and the application was bad for non joinder and mis-joinder of the parties. The respondent No. 1 admitted in the evidence the notification dated 22.09.1999 of the Forest Department (Exhibit -1 series). The petitioners No. 1 and 3 admitted in the evidence the field inquiry report of the surveyors (Exhibit-3). Apart that, the letter dated 25.02.2005 of the Revenue Department of the Govt. of Tripura relating to the rate of standing trees was admitted in the evidence and marked Exhibit-D series. The District Judge based on the Forest Department notification (Exhibit-1 series) has observed as under:

> **"……While upholding the compensation assessed for mango and jack fruit by O.P. No. 4, those fixed rates for Segun trees needs intervention. As per Exhibit-1 series there are different rates considering the girth of trees. In the case in hand, girths of the trees were 3' 3'4 and 3'6. That being so, the minimum rate prescribed for 45 cm girth can easily be applied. Accordingly, it is decided that the claimant is entitled to get compensation for 932 (847+85) number of Segun trees @ Rs. 2980/- per tree."**

[16] According to Mr. Deb, learned senior counsel, the application filed by the respondent No. 1, u/s 10(2) PMP act was initially registered as Misc (LA) 73 of 2012 and it was transferred to the court of Land Acquisition Judge No. 5. The Addl. District Judge

did not have any jurisdiction inasmuch as only the District Judge has the authority under the statute to entertain and decide an application field u/s 10(2) of PMP act. As such, there was clear lack of jurisdiction. Even subsequent withdrawal of the case from the court of the Land Acquisition Judge, was without jurisdiction. Mr. Deb, learned Sr. counsel, has raised another pertinent question that by accepting rate of round timber per-cubic meter, in view of the said Forest Notification (Exhibit-1 series), the District Judge has committed serious error, in as much as the girth of the tree was not properly considered.

[17] Having referred to the said notification (Exhibit-1 series) the rate of Teak, in girth class .30 cm to less than 45 cm at Rs. 2980/- has been given, whereas the competent authority had given the rate of Rs. 800/-. The respondent No. 1 had claimed Rs. 7500/-. The rate as awarded by the District Judge is the lowest in terms of the Forest Department notification. Mr. B. Choudhury learned counsel appearing for the claimant-respondents has clearly submitted that the trees were uprooted without taking any measurement of the girth and from the observation of the District Judge, it would be apparent that he determined the girth on the basis of the field survey and as such there is no infirmity. On the aspect of the registration of the case as the LA case or on the aspect of lack of jurisdiction, Mr. Chouodhry has submitted that these lapses if any, cannot be attributed to the respondent No. 1. It was

clear mistake of the court. However, later on the said mistake was corrected.

[18] He has further submitted that following the de-facto doctrine for the defect of the procedure, the judgment cannot be held invalid. In this regard a decision of the Apex Court in Gokaraju Rangafraju v. State of A.P. and another as reported in AIR 1981 SC 1473 can be referred, where the Apex Court has approved the decision of Calcutta High Court in Pulin Bihari v. King Emperor [1912-15 Cal LJ 517]. In Pulin Bihari (supra), Sir Asutosh Mukerjee, J. after tracing the history of the doctrine in England observed as follows:

> **"The substance of the matter is that the de facto doctrine was introduced into the law as a matter of policy and necessity, to protect the interest of the public and the individual where these interests were involved in the official acts of persons exercising the duties of an office without being lawful officers. The doctrine in fact is necessary to maintain the supremacy of the law and to preserve peace and order in the community at large. Indeed, if any individual or body of individuals were permitted, at his or their pleasure, to collaterally challenge the authority of and to refuse obedience to the Government of the State and the numerous functionaries through whom it exercised its various powers on the ground of irregular existence or defective title, insubordination and disorder of the worst kind would be encouraged. For the good order and peace of society, their authority must be upheld until in some regular mode their title is directly investigated and determined."**

[19] This doctrine as well can be applied to save the others. On scrutiny of the records for having a glimpse as to the method of determining compensation, this court is of the view that the compensation as determined by the District Judge does not warrant any interference. Moreover, re assessment of evidence is alien in the

jurisdiction under Art. 227. Hence, this petition, without further consideration, is liable to be dismissed and it is ordered accordingly.

CRP. 54 of 2015
Oil and Natural Gas Corporation Ltd., v. Sri Najen Marak & Ors.

[20] By means of this petition the petitioners has questioned the judgment and award dated 28.02.2015 delivered in Civil Misc (PMP) 12 of 2014 by the District Judge, West Tripura Agartala. The undisputed facts as unfolded from the records are as under:

[21] Sri Nejan Marak and Smt. Sabita Marak @ Sabita Laxmi, wife of Sri Najen Marak, the respondents herein, were in possession of plot No. 7007, 6982, 6985 and 6978 under Khatian. Nos. 1486 and 1485 of Mouja Anandanagar under Bishalgarh Sub-division. They planted rubber trees in the year 2002. Out of the land possessed by the respondents 01 (one) acre was necessary to lay the pipelines for supply of gas to the Palatana Project. The respondents prayed for the compensation to the extent of Rs. 20,00,0000/- for damages of 144 rubber trees, value of which was assessed at Rs. 13,890/- per tree. The said rate was gathered from the notification dated 03.09.1996, issued by the Managing Director TRPC Ltd. But the competent authority by the order dated 05.01.2012 awarded the compensation at Rs. 1,15,000/- for 144 rubber trees at Rs. 800/- per tree. The respondents filed an application u/s 10(2) of the PMP Act. From the petitioners herein, maintainability of that petition was questioned but the District Judge has observed that award being

made on 02.01.2012 and the application being filed before that Court on 29.08.2012 it was not beyond the period of limitation of 90 days as provided by Rule 5 of the PMP Rules 1963. On the ground of non-joinder of the parties, the District Judge did not find any infirmity in the petition. The District Judge while determining the rate per Segun tree considered the judgment dated 27.01.2015 as delivered in Civil Misc (PMP) 67 of 2014 as well as the letter of the Superintendent of Agricultural dated 29.08.2011 [Exhibit-J], the letter of the rubber board dated 25.10.2010[Exhibit--K] and the letter dated 25.02.2005 of Revenue Department showing rate of the fruit bearing trees [Exhibit-L] alongwith Exhibit- 2 series and Exhibit- 3, two notifications of the Tripura Forest Development and Plantation Corporation Ltd. For the capitalized value of rubber trees, that communication dated 02.11.2011 [Exhibit-3] of the TRPC Ltd was considered, but the District Judge found that Exbt2/3 series carry comparatively better proposition. Having exercised thus and having due regard to the judgment dated 27.01.2015 delivered in Civil Misc (PMP) 67 of 2014, the District Judge, observed as follows:

> **" For the reasons stated above, it cannot be said that the compensation assessed by the OP for rubber and segun trees was adequate and proper which needs enhancement. The rate of per rubber tree is thus assessed at Rs. 7,143/- and that of segun at Rs. 2980/-. Claimants are not entitled to get any other relief."**

[22] The said finding of the District Judge as returned by the judgment dated 28.02.2015 [in Civil Miss (PMP)12 of 2014] is under challenge in this petition. Initially the case was registered as

the Misc (LA) 251 of 2012 on 29.08.2012 as it was transferred to the court of the LA Judge, Court No. 5, West Tripura, Agartala for determination of the compensation. Later on, by the order dated 02.07.14, the said case was again registered and re-numbered as Civil Misc (PMP) 12 of 2014. This aspect has already been dwelled upon and answered by holding that de facto doctrine is applicable in the context for protecting the proceeding in order to avoid prejudice to the parties and as such this ground falls short of. No interference is therefore called for.

[23] Even the petitioners have challenged that rate as fixed by the District Judge based on the notifications dated 22.09.1999 and 15.01.1998, as, according to them, those were fixed for a different purpose. Though, it has been stated that the referred judgments passed in L.A. Appl. 37 of 2008 and 26 other cases on 01.02.14 was relied by the petitioners herein, but that was not considered. On scrutiny of the records what surfaced before this court is that, out of diverse documents, the District Judge found that the documents that he relied appeared to be very effective tool.

[24] For selection of those documents as stated, adequate analogy has been provided by the District Judge and as such, this court does not find any palpable illegality or failure in exercising the jurisdiction correctly. Having observed thus, this petition stands dismissed, relegating no question to be decided in this subsequent part of this judgment.

CRP 59 of 2016
Oil and Natural Gas Corporation Ltd. & Others v. Pranay Bhusan Debnath

[25] By this petition, the judgment and award dated 04.01.2016 delivered in Civil Misc (PMP) 51 of 2014 by the Dstrict Judge, West Tripura, Agartala has been challenged by the petitioner. The undisputed fact is that the respondent's father namely Birendra Kishor Debbarma owned and possessed the khas land measuring 2.51 acre of Mouja Purba Nalchar comprised in Khatian No. 429/1 to 429/3 and in Hal Plots No. 713(p),714(p), 716(p), 717(p), 718(p), 705(p), 707(p), and 708(p). The respondent's father planted rubber trees and valuable trees in the year 2003. He had excavated pond for fish. Out of that land, the land measuring 0.35 acres was taken over for laying pipelines for supply gas to Palatana Project. The respondent raised objection but the competent authority by the order dated 26.03.13 awarded the compensation at Rs. 1,36,731/- for 60 rubber trees of 9-10 years age. There was also 1 (one) gub (the local name) tree alongwith 60 mango trees and 50 banana plants. No compensation was as well paid for use of the land. The respondent filed the application under Section 10(2) of the PMP Act claiming compensation at Rs. 13000/- per rubber tree, Rs. 8000/- per valuable wooden tree and Rs. 5000 per fruit trees and for the land Rs. 5,00,000/- per kani. The claimant in support of the claim before the District Judge relied on the memorandum dated 30.09.96 [Exhibit- 1], assessment of rubber

tree made by aid of the TRPC circular dated 29.04.08 [Exhibit- 2], the memorandum dated 05.01.2010 of the TRPC for capitalized value of each rubber tree and the letter dated 02.11.2011 of the TRPC [Exhibit-4]. The respondents have further relied on the notification of the Forest Department dated 22.09.1999 [Exhibit- 6 series] and the deed of power of attorney as executed by his father [Exhibit- 7] along with other land records. For the petitioners, some documents were produced in respect of acquisition of right of use, indemnity bond with no-objection, the judgment and award dated 02.04.2013 and the payment register etc. The District Judge after appreciating the evidence, both oral documentary, has returned the following finding :

> **"9. All the three issues are taken up together for discussion and decision. Exhibits 1 to 5 series are the documents proved from the side of claimant regarding assessment of compensation of rubber tree. No document is proved in this regard from the side of the O.P Documents exhibited by the claimants are similar in nature, i.e. calculation of capitalized value of a rubber tree according to age of tree. Of these documents, Exhibit- 3 and 4 are relevant to this case being prepared on 05.10.2010 and 02.11.2011 respectively and date of notification under Section 3 of the PMP Act being 29.11.2012. As per Exhibit- 3 latex yielding starts in the 7th year and the value of each tree at that time is calculated as Rs. 7143/-. In Exhibit-. 4 though the value of a tree in the first year is shown as Rs. 7,143/- in terms of Exhibit- 3, first year of yielding latex is the seventh year of the tree. So, in Exhibit- 4, first year is to be treated as the seventh year of the tree. As per claim application, the rubber trees were aged 9-10 years. In accordance with Exhibit- 4, the value of tree of 9-10 years age, taking average, comes to Rs. 4613/-. The OP has applied the rate prescribed in Exhibit- 2 i.e. Rs. 3,333/- per tree in making the assessment. This rate was prescribed on 29.04.2008 whereas the date of notification is 29.1.2012. So, Exhibit- 4 prepared on 02.11.2011 is definitely preferable to Exhibit- 2 prescribing the rate on 29.04.2008 so, Rs. 4,613/- ought to have been fixed as the rate of compensation for each rubber tree instead of Rs. 3,333/-.**
>
> **10. So far as the claim for Mango, Bel Banana, Jack Fruit and Gub trees are concerned, claimant has failed to prove any prescribed rate. Exhibit- 6 series referred in this regard at the time of argument, does not**

prescribe rates for these trees. Hence, no enhancement of rates of these trees' comes into question

11. Claimant has failed to prove any sale deed or any other document relating to the rate of the land or of any adjoining land as the basis of claim of compensation for the land. For this, there are absolutely no documents before this Court to assess any compensation for land. So, he is not entitled to get any compensation for the land.

12. For the reasons stated above, it cannot be said that the assessment of compensation made by the competent authority for rubber tree was adequate and proper. Thus, following the aforesaid analogy, the compensation is assessed as Rs. 4,613/- per rubber tree. Compensation fixed for other trees and land remains unchanged. The compensation shall be paid within a period of 60 days from today. The amount already paid, if any, shall be deducted from the total compensation. If the amount is not paid within the period of 60 days from today, the same or the amount due shall carry interest @ 6% per annum from the date of expiry of 60 days from today till realization."

[26] While challenging the said judgment dated 04.01.2016 the petitioners have contended that the order passed by the competent authority was an agreed order. The grounds as urged for interference in the impugned judgment are that the evidence was not properly assessed, so far it is concerned with the age of the trees and consequential determination of the damage. This court has carefully considered the order 02.04.2013 and the records as referred. It appears that no agreement as to the compensation has been recorded by the competent authority, and as such that plea as raised by the petitioner is discarded. Further, on scrutiny, it does not appear that the appreciation of evidence is visited by substantive illegality or perversity, as the rate as has been determined by the District Judge is based on government records in the realm of public document.

[27] The petitioners herein did not adduce any record regarding the age of the trees as damaged for the said acquisition of the right to use. Hence, there is no reason to interfere with the said judgment dated 04.01.2016 and accordingly this petition stands dismissed.

CRP 54 of 2016
The Oil and Natural Gas Corporation Ltd. v. Chandra Sekhar Debnath

[28] By this petition, the judgment dated 04.01.2016 delivered in Civil Misc (PMP) 52 of 2014 by the District Judge, West Tripura, Agartala has been called in question by the petitioner. The brief fact leading to this petition is that one Birendra Kishore Debnath father of the respondent, Chandra Sekhar Debnath owned and possessed the land measuring 3.00 acre of Mouja Purba Nalchar comprised in Khatian No. 429/1 to 429/3 in Hal Plots No. 713(p),714(p), 716(p), 717(p), 718(p), 705(p),707(p), and 708(p). The father of the respondent planted rubber trees and valuable trees in the year, 2003 and excavated pond for fish. Out of the said land , the land measuring 0.35 acre was acquired for its use to lay pipelines for supply of gas to the Palatana Thermal Gas Project of the petitioners. By the order dated 26.03.2013, the competent authority awarded the compensation at Rs. 34,7,866/- for 210 rubber trees of 9-10 years of age, one teak tree and some other fruit bearing trees etc.

[29] The respondent was authorized by the original owner to claim compensation at Rs. 13,000/- per rubber tree, Rs. 8000 per valuable tree Rs. 5000 for fruit trees, Rs. 10,000/- for tube-well, Rs. 25,000/- for pucca water tank, Rs. 30,000/- for poultry firm, Rs. 40,000/- for sanitary latrine and Rs. 60,000/- for the home stead whereas the respondent claimed Rs. 5,00,000/- per kani for damage to the land.

[30] The claimant, in support of the claim, relied on the memorandum dated 30.09.96 [Exhibit- 1], assessment of rubber plant by the TRPC dated 29.04.08 [Exhibit- 2], the memorandum 05.01.2010 of the TRPC on capitalized value of each rubber tree as on 02.11.2011 of the TRPC [Exhibit- 4]. The respondent had further relied on the notification of the Forest Department dated 22.09.1999 [Exhibit- 6 series] and the deed of power of attorney as executed by his father [Exhibit- 7] along with other land records. The petitioners herein produced some conventional records, such as the gazette notification for acquisition and assessment order dated 02.04.2013. On appreciation of the evidence, the District Judge has returned the following finding:

> **10. Exhibited 1 to 5 series are the documents proved from the side of the claimant regarding assessment of compensation of rubber tree. No document is proved in this regard from the side of the O.P .Document exhibited by the claimant are similar in nature, i.e. calculation of capitalized value of a rubber tree according to age of tree. Of these documents, Exhibit-3 and 4 relevant to this case being prepared on 02.11.2011 and 05.10.2010 respectively and date of notification under Section 3 of the value of each tree at that time is calculated as Rs. 7143/-. In Exhibit- 3, though the value of a tree in the first year is shown as Rs. 7143/-. In terms of Exhibit-4, first year of yielding latex is the seventh year of the tree. So, in Exhibit- 3,**

first year is to be treated as the seventh year of the tree. As per claim application, the rubber trees were aged 9-10 years. In accordance with Exhibit- 3, the value of tree of 9-10 years age, taking average, comes to Rs. 4613/-. The OP has applied the rate prescribed in Exhibit- 2 i.e. Rs. 3333/- per tree in making the assessment. This rate was prescribed on 29.04.2008 whereas the date of notification is 29.11.2012. So, Exhibit- 3 prepared on 02.11.2011 is definitely preferable to Exhibit- 2 prescribing the rate on 29.04.2008. So, Rs. 4613/- ought to have been fixed as the rate of compensation for each rubber tree instead of Rs. 3333/-.

So far as other valuable wooden trees, tube well, pucca water tank, poultry firm, sanitary latrine and homestead, claimant has failed to prove any prescribed rate, Exhibit- 6 series referred in this regard at the time of argument, does not prescribe rates for these trees except karai, simul and sal trees. In respect of karai, simul and sal trees also, rate prescribed in Exhibit- 6 series is rate of round timber per cubic meter whereas in the award, description of such trees is given in girth only for which no calculation in terms of cubic meter is possible. Hence, no enhancement of rates of these trees and structure comes into question.

Claimant has failed to prove any sale deed or any other document relating to the rate of the land or of any aDistrict Judgeoining land as the basis of claim of compensation for the land. For this, there is absolutely no document before this court to assess any compensation for land. So, he is not entitled to get any compensation for the land.

11. For the reasons stated above, it cannot be said that the assessment of compensation made by the competent authority for rubber tree was adequate and proper. Thus, following the aforesaid analogy, the compensation per rubber tree is assessed as Rs. 4613/-. Compensation fixed for other trees, structure and land remains unchanged. The compensation shall be paid within a period of 60days from today. The amount already paid, if any, shall be deducted from the total compensation. If the amount is not paid within the period of 60 days from today, the same or the amount due shall carry interest @ 6% per annum from the date of expiry of 60 days from today till realization."

[31] The petitioners have urged the similar ground as they uged in CRP 59 of 2016 [ONGC Ltd. v. Pranaya Bhusan Debnath]. On the basis of the claim raised by the owner of the land, the competent authority has assessed the compensation. In this regard, a document dated 2.04.2013 by the respondent has been relied. But it does not show any particular rate that was claimed by the respondent. But another document dated 02.04.2013 enclosed as

Annexure-X to this petition has not been produced before the District Judge, the following observation has been recorded by the competent authority:

> **" the land owner Sri Chandra Shekar Debnath, son of Sri Birendra Kishore Debnath has prayed for compensation which is assessed by the undersigned is indicated below"**

The above statement cannot create the consent by the land owner as nowhere the land-owner put his signature agreeing to the rate of the said land and its attached properties. As such, the said ground cannot be accepted as the basis to hold that the District Judge has assessed the damage beyond what the respondent has asked for.

[32] Mr. S. M. Chakraoty, learned senior counsel, while raising the question has submitted that making the compensation beyond what has been claimed is not permitted by the PMP Act. That apart, he urged for remand of the matter for re-trial. This court does not find any reason, on close scrutiny of the judgment, to remand the matter for retrial or re-determination. As such, this petition stands dismissed.

[33] Having regard to the generality of the grounds as raised in the individual petitions, this Court has decided the cases in the above terms. But two questions have been left for some more appreciation viz (i) what would be the meaning and purport of the word 'intimation' from the competent authority as appearing in Rule 5 of the PMP Rules, 1963 for purpose of determining the starting point of limitation as prescribed by the said rule and (ii) what would

be the extent or limit of appreciation in a proceeding under Art. 227 of the Constitution on the face of the challenge to the determination of the District Judge under Section 10 (2)/(3) of the PMP Act and whether such determination is akin to the determination under Section 18 read with Section 23 of the LA Act in any manner?

[34] This Court in ONGC. Ltd. v. Kartik Debnath and others [Judgment and Order dated 31.08.2015 delivered in CRP 75 of 2014] observed as under:

> **" but no document to prove that communication as to when the award was communicated to the land-owner is available in the record. As such, in absence of any pleading or evidence on record in this regard, when the land-owners received the communication of the award, it cannot be held that their applications are barred by limitation. Rule 5 of the Rules categorically prescribes that the limitation should start from the date when the land-owner would receive the communication. In absence of any proof in this regard, it cannot be held that the applications were barred by the limitation as provided under Rule 5 of the Rules. Hence, in this regard, raised by the petitioner stand rejected."**

[35] In view of the above observation, there cannot be any dispute that the day on which 'intimation' or 'the communication' is received by the person from whom the right to use is acquired under the PMP Act is a pertinent date for purpose of counting the limitation. Whether the simple knowledge that the order has been passed by the competent authority or whether receipt of money from the corporation or the Government would be enough to hold that from that date, limitation would start for purpose of filing an application under Section 10 (2) of the PMP Act? Section 10(2) of the PMP Act provides as under:

> **" 2. If the amount of compensation determined by the competent authority under sub-section (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the District Judge within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that District Judge."**

[36] Whether the amount of compensation as determined by the competent authority for damage, loss or injury as sustained by any person interested in the land, in the underneath of which the pipelines is proposed to be laid or has been laid under Section 10(1) of this PMP Act is acceptable or not for that the order by which such determination is made has to be made available to the person having interest in the said land so that he can appreciate the materials or the factors taken into consideration for such determination. Thus, mere 'intimation' or mere knowledge would not suffice, it shall be substantive, meaning the intimation shall be constituted of relevant part of the fact as considered and the reason for such determination on or without appreciation of materials in discharging of the respective claims.

[37] In view of this, even if, any person receives any amount on account of compensation without having the said intimation in the manner as observed, that would not limit the person to approach the District Judge for determination of the compensation in terms of Section 10(3) of the PMP Act. Limitation would start only on receipt of the intimation. On scrutiny of the record it appears to this Court that in CRP No. 142 of 2015[Smt. Anita Barman v. ONGC Ltd. & Ors], this aspect of the matter was not properly appreciated by the District Judge and hence, the impugned judgment dated

24.09.2015 is interfered with and set aside. Civil Misc (PMP) 34 of 2014 is therefore remanded for reconsideration in the light of the above observation. The District Judge shall decide the said case as expeditiously as possible but by any rate before 31.03.2017.

[38] The Apex Court in Shalini Shyam Shetty (supra) has clearly observed that the High Court can set aside or reverse finding of an inferior court or tribunal only in a case where there is no evidence or where no reasonable person could possibly have come to the conclusion which the court or tribunal has come to. The Apex Court has made it clear that except to this 'limited extent', the High Court has no jurisdiction to interfere with the findings of fact. In coming to the above finding, the Apex Court relied on its previous decision rendered in Chandavarkar Sita Ratan Rao v. Ashalata S. Guram, reported in (1986) 4 SCC 447. The decision in Chandavarkar (supra) is based on the principle of the Constitution Bench judgments in Waryam Singh v. Amarnath, [AIR 1954 SC 215] and Nagendra Nath Bora v. Commr. of Hills Division and Appeals, [AIR 1958 SC 398]. As such, unless there is grave perversity such as absence of evidence or that the finding which has been returned no reasonable person could possibly come to such conclusion, there could be no interference by the High Court under Art. 227 of the Constitution. Except this limited extent, the High Court has no jurisdiction to interfere with the finding of facts. Based on this principle of law, this Court refrains to interfere into

impugned judgments assailed in these petitions, except in CRP 142 of 2015.

[39] Whether the process of determination of compensation or its factors are akin to the process of the land acquisition referral cases? The answer would be in the negative. When damage, loss or injury under PMP Act is determined by the District Judge within the province of Section 10(3) of the PMP Act as reproduced, in a land acquisition reference the compensation is determined on the elements or factors as provided u/s 23 of the Land acquisition Act. Even the interest is guided under a structured formula as provided under Section 34 of the LA. Act. Section 23 of the LA Act has a structure with liberty of flexibility. For sake of brevity, the elaborate comparison is not at all required and for the same reason, the provision as made under section 23 of the LA Act has not been extracted.

[40] In the result, the petitions being CRP No. 12 of 2016, CRP. No. 50 of 2015 and CRP 54 of 2015, CRP No. 54 of 2016 and CRP 59 of 2016 are dismissed. But the petition being CRP. No. 142 of 2015 is allowed. As consequence of the findings to above, the judgment dated 24.09.2015 passed in the said Civil Misc (PMP) 34 of 2014 is quashed. The case being Civil Misc (PMP) 34 of 2014 is remanded for re-adjudication.

In the context, there shall be no order as to costs.

JUDGE

A.Ghosh