"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 24TH DAY OF MARCH 2025 / 3RD CHAITHRA, 1947

WP(C) NO.3256 OF 2019

PETITIONERS:

1 KOCHI SELAM PETROLEUM GAS PIPELINE SURAKSHITHAWA NASHTAPRIHARA JANAKEEYA SAMITHI (REG NO.TSR/TC/4/2019) ROOM NO.10/1053K, PATTIKAD P.O., THRISSUR-6809 652, REPRESENTED BY ITS SECRETARY, ANIL KUMAR O.S., AGED 50 YEARS, S/O. O.K.SIVARAMAN NAIR

2 ANIL KUMAR O.S., AGED 50 YEARS, S/O. O.K.SIVARAMAN NAIR, OTTULLIL HOUSE, MANAKKULANGARA P.O., KODAKARA, THRISSUR DISTRICT, PIN-680 684

3 SANTHOSH K., AGED 57 YEARS, S/O. KUTTAPPAN C.C., PUTHANPURAKKAL, NADATHIPARA, PANNIYANKARA P.O., PALAKKAD, PIN-678 683

4 GEETHA, AGED 46 YEARS, KALLAMKADU HOUSE, CHITTIPPARA, VENGODI P.O., PALAKKAD DIST., PIN-678 622.

5 RAVEENDRAN, AGED 58 YEARS, S/O. KOCHURAMAN, MUNDAKKAL HOUSE, KODAKARA P.O., THRISSUR DIST.

BY ADVS.
RENJITH THAMPAN (SR.)
V.M.KRISHNAKUMAR
MAYA M.

RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY SECRETARY TO THE MINISTRY OF PETROLEUM AND NATURAL GAS, GOVERNMENT OF INDIA, NEW DELHI, PIN-110 001.

2 STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.

3 DEPUTY COLLECTOR/COMPETENT AUTHORITY, KOCHI-SALEM PIPELINE PROJECT, 2ND FLOOR, KARUN ENCLAVE, S.N.JUNCTION, THRIPUNITHURA, ERNAKULAM, PIN-682 301.

4 KOCHI-SALEM PIPELINE PRIVATE LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR, MALAYIL MAJORITY BUILDING, ROOM NO.174-G, 11 FLOOR, REFINERY ROAD, KUNDANNUR, MARAD P.O., ERNAKULAM, PIN-682 304.

5 BHARAT PETROLEUM CORPORATION LIMITED, P.B.NO.2, AMBALAMUGAL, ERNAKULAM-682 302, REPRESENTED BY ITS MANAGING DIRECTOR.

6 INDIAN OIL CORPORATION LIMITED, PANAMPILLY NAGAR, ERNAKULAM-682 036, REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.
SRI.SAJI VARGHESE
SRI.M.GOPIKRISHNAN NAMBIAR
SMT.MARIAM MATHAI
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SRI.PAULOSE C. ABRAHAM
SMT.POOJA MENON
GOVERNMENT PLEADER, SRI.T.JAYAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13.03.2025, ALONG WITH WP(C).12196/2019, THE COURT ON 24.03.2025 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON

MONDAY, THE 24TH DAY OF MARCH 2025 / 3RD CHAITHRA, 1947

WP(C) NO. 12196 OF 2019

PETITIONER:

JOSEPH A.C. [PARTY], AGED 45 YEARS,
S/O. CHUMMAR, AKKARE HOUSE,
HOLY ANGELS ROAD, OLLUR, THRISSUR DISTRICT.

RESPONDENTS:

1 **UNION OF INDIA, REPRESENTED BY SECRETARY TO THE MINISTRY OF PETROLEUM AND NATURAL GAS, GOVERNMENT OF INDIA, NEW DELHI, PIN - 110 001.**

2 **DEPUTY COLLECTOR/COMPETENT AUTHORITY, KOCHI-SALEM PIPELINE PROJECT, 2ND FLOOR, KARUN ENCLAVE, S.N JUNCTION, THRIPUNITHIURA, ERNAKULAM, PIN - 682 301.**

3 **KOCHI-SALEM PIPELINE PRIVATE LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR, MALAYIL MAJORITY BUILDING, ROOM NO 174-G, II FLOOR, REFINERY ROAD, KUNDANNUR, MARAD P.O, ERNAKULAM, PIN - 682 304.**

4 **TANU JENY JOHN, W/O. JENY JOHN, THATTIL HOUSE, MASTER AVENUE, MUNDUPALAM, THRISSUR, PIN - 680 006.**

5 **BHARAT PETROLEUM CORPORATION LIMITED, P.B NO. 2, AMBALAMUGAL, ERNAKULAM - 682 302, REPRESENTED BY ITS MANAGING DIRECTOR.**

6 **INDIAN OIL CORPORATION LIMITED, PANAMPILLY NAGAR, ERNAKULAM, PIN - 682 036, REPRESENTED BY ITS MANAGING DIRECTOR.**

BY ADVS.
SMT.M.S.KIRAN, CGC
SRI.SAJI VARGHESE
SRI.K.B.GANGESH
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.K.JOHN MATHAI
SMT.MARIAM MATHAI
SRI.JOSON MANAVALAN
SRI.KURIAN THOMAS
SRI.PAULOSE C. ABRAHAM
SMT.POOJA MENON
GOVERNMENT PLEADER, SRI.T.JAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13.03.2025, ALONG WITH WP(C).3256/2019, THE COURT ON 24.03.2025 DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) Nos.3256/2019 and 12196/2019]

These writ petitions pertain to the interpretation of the various provisions of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (hereinafter referred to as the 'Act') and the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Rules, 1963 (hereinafter referred to as 'Rules') made thereunder, with specific reference to the right of the 4th respondent in W.P(C) No.3256 of 2019 to lay pipelines through the properties in question. The 1st petitioner in W.P(C) No.3256 of 2019 is stated to be a Society, wherein petitioners 2 to 5 are members. It is stated that the 4th respondent – a Private Limited Company has been trespassing into the property of the members of the 1st petitioner Society like petitioners 2 to 5 for laying pipelines for the transportation of Liquefied Petroleum Gas(LPG) from Kochi to Tamil Nadu. The 4th respondent Company is stated to be a joint venture of Bharat

Petroleum Corporation Limited (BPCL) and Indian Oil Corporation Limited (IOCL), respondents 5 and 6 in the writ petition. The pipeline is stated to start from Kochi to Salem, Tamil Nadu.

2. The petitioners contend that during the year 2000, the Government of India issued a notification under the Act, permitting another Company – M/s.Petronet CCK Limited (hereinafter referred to as 'Petronet CCK') for transportation of various petroleum products from Kerala to Tamil Nadu. The notification issued is the one at Annexure R4(a) dated 19.04.2000. They further contend that based on the above notification, the "right of user" of the landed properties of the petitioners were acquired by the Central Government and vested in the Petronet CCK, who in turn laid the pipelines. The petitioners admit that an area of "18 meters" in width over the properties of the petitioners were acquired from Irimpanam in Kochi to Karur, Tamil Nadu, after paying a compensation of 10% of the then market value. They further point out that after the laying of the pipeline, etc., a notification dated 11.06.2004 was

issued, declaring 15.12.2002 as the date of termination of operation in the State of Kerala. They contend that after the afore date of 15.12.2002, the "right of user" for the purpose of "laying of the pipeline" through the properties of the petitioners by Petronet CCK has ceased to exist. They further contend that if at all there can be any entry into the property thereafter, that can be only under the provisions of Section 8 of the Act with proper notice to the petitioners. As against the afore, the petitioners contend that the 4th respondent is encroaching into their properties, citing the "right of user" already acquired for laying of pipelines from Kochi to Tamil Nadu, by a different entity.

3. In such circumstances, the petitioners have filed the captioned writ petition seeking a declaration that the respondents have no right to lay pipelines in their properties and also seeking to quash Ext.P2 notification dated 07.01.2019 issued by the State of Kerala, by which an *ex gratia* compensation of 20% of the fair value or a lumpsum compensation of Rs.15,000/- per land owner, whichever is

higher, is fixed, apart from compensation at Rs.3,761/- per cent in respect of paddy land through which the pipeline passes.

4. The prayers in W.P(C) No.12196 of 2019 are also similar to the above.

5. I have heard Sri.Renjith Thampan, the learned senior counsel for the petitioners, Sri.Saji Varghese, the learned counsel for the 4th respondent and Smt.Pooja Menon, the learned counsel for respondents 5 and 6.

6. Sri.Thampan, the learned senior counsel, would contend that:

i. The Act visualizes the acquisition of the "right of user in the land" for laying pipelines and that is already over by 15.12.2002, when the completion of the project was declared. In the light of the above, the 4th respondent does not get any right to enter the properties of the petitioners.

iii. The declaration under Section 6(1), read with sub-section (4) thereto, has already taken place by vesting

the properties on Petronet CCK. In the light of the above vesting, the 4th respondent cannot enter the properties for laying pipelines.

iv. Without prejudice, assuming that the 4th respondent is entitled to enter the properties for laying of pipelines, the petitioners are entitled to compensation under Section 10 of the Act read with Rules 4 and 4A of the Rules.

v. He would rely on the judgment of the Apex Court in **Laljibhai Kadvabhai Savaliya and Others v. State of Gujarat and Others [(2016) 9 SCC 791]** in support of the submissions.

7. *Per contra*, Sri.Saji Varghese, the learned counsel would contend that:

i. The properties in question have already vested with the Central Government under Section 6(1) of the Act pursuant to the notification dated 19.04.2000 [Annexure R4(a)]. There can be a separate vesting of

the right to use the unused stretch of land under Section 6(4) in favour of the 4th respondent as per Annexure R4(c) dated 01.02.2016.

ii. In view of the original vesting and payment of compensation, the petitioners have no say in the matter, as held by the Apex Court in various judgments.

iii. Even though the petitioners have no legal right, they have been provided some compensation, so they cannot have any grievance in that regard.

8. I have considered the rival contentions and the connected records.

9. Two questions arise for consideration in these writ petitions as under:

i. Is the 4th respondent entitled for the "right of user" under the Act, as claimed by it?

ii. Assuming that the 4th respondent is entitled for the right of user, what is the extent of compensation eligibility of

the petitioners herein?

10. For an effective consideration of the 1st question framed as above, an evaluation of the various provisions of the Act is required to be made.

11. The Act, promulgated in the year 1962, provides for the acquisition of the "right of user in land" for the specific purpose of laying pipelines for the transport of petroleum or minerals. Section 3 provides for the publication of notification for acquisition, whenever transport of petroleum or minerals through pipelines laid down by either the Union Government or the State Government or a Corporation is necessitated. What is sought to be acquired under Section 3 is only the "right of user" in the land. On the basis of the notification issued as above, Section 4 of the Act, permits the officers of the Government/Corporation to enter the property for survey etc. Section 5 of the Act provides for the hearing of objections to the notification issued under Section 3 by the competent authority and the adjudication of the afore objections.

12. Section 6 of the Act, over which there is much dispute reads as under:

> **"6. Declaration of acquisition of right of user**.—(1) Where no 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 parcels 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 pipeline for the transport of petroleum or any mineral, declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired and different declarations 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.

(3) Where in respect of any land, a notification has been issued under sub-section (1) of section 3 but no declaration in respect of any parcel of land covered by that notification has been published under this section within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of that period.

(3A) No declaration in respect of any land covered by a notification issued under sub-section (1) of section 3, published after the commencement of the Petroleum Pipelines (Acquisition of Right of User in Land) Amendment Act, 1977, shall be made after the expiry of three years from the date of such publication.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, on such terms and conditions as it may think fit to impose, direct by order in writing, that the right of user in the land for laying the pipelines shall, instead of vesting in the Central Government vest, either on the date of publication of the declaration or, on such other date as may be specified in the direction, in the State Government or the corporation proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that State Government or

> corporation, as the case may be, free from all encumbrances."

Sub-section (1) to Section 6 provides for the declaration of the acquisition of the "right of user" in the land in favour of the Central Government. Sub-section (2) provides that once the declaration under sub-section (1) is made, the "right of user" of the land to absolutely vest in the Central Government. Sub-section (4) provides further that the property, instead of being vested with the Central Government, may vest in the Corporation or the State Government, and thereupon, the "right of user" in the land shall be on the State Government or the Corporation concerned.

13. It is on the basis of the vesting under Section 6 of the Act, the pipelines are being laid by the State Government, Central Government, or the Corporation as provided under Section 7. Clause (ia) of Section 7(1) is also relevant and the same reads as 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, it shall be lawful for such person to use such land for laying pipelines for transporting petroleum or any other mineral and."

In the light of the above, independent of the provisions of Section 6(4), any person, upon authorization by the Central Government, can use the land in question for laying of pipelines. This specific provision has been introduced, in my opinion, to cover cases of like nature, when a declaration/vesting has already taken place, entitling the Government or the Corporation to permit the use of the property by any other person. Once the laying of the pipeline is over, Section 8 of the Act entitles any person authorized by the Central Government/Corporation, after giving notice to the landowner to enter the property for examination of the pipelines, etc. The owner of the land is having certain restrictions with respect to the use of the land as laid down under Section 9.

14. Section 10 of the Act provides for extension of

compensation and the same reads as under:

> **"10. Compensation**.—(1) Where in the exercise of the powers conferred by section 4, section 7 or section 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the Central Government, the State Government or the corporation, as the case may be, shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.
>
> (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.
>
> (3) The competent authority or the District Judge while determining the compensation under sub-section (1) or sub-section (2), 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 trees of standing crops, if any, on the land while exercising the power 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.

(4) Where the right of user of any land has vested in the Central Government, the State Government or the corporation, 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 per cent. 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 the 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 the District Judge referred to in sub-section (2), be determined by that District Judge.

(6) The decision of the District Judge under sub-section (2) or sub-section (5) shall be final."

Sub-section (1) to Section 10 entitles the owner of the land for compensation on account of damage, loss or injury suffered by him when survey under Section 4, laying of pipeline under Section 7 and subsequent inspection under Section 8 is carried out. The compensation paid under sub-section (1), can be sought to be enhanced by making an application under sub-section (2) by the owner of the land or sought to be reduced by the Government or the Corporation concerned. Sub-section (3) lays down the matters to be considered while determining the compensation under sub-section (1) or (2). Sub-section (4) provides for the compensation payable over and above the compensation under sub-section (1) for the loss of the right of enjoyment in the land at 10% of the market value of the land as on the date of notification. The compensation under sub-section (4) can also be challenged under sub-section (5) by either party.

15. It is on the basis of the afore broad provisions laid down

under the Act, that the rival claims are to be considered.

16. As already noticed, Annexure R4(a) notification dated 19.04.2000 has been issued by the Government of India by acquiring the "right of user" with respect to the properties mentioned in the schedule to the notification. The afore notification reads as under:

> "Ministry of Petroleum and Natural Gas
> New Delhi, the 19th April, 2000
>
> S.O.869 - Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O.3405 dated the 22nd November, 1999 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962), (hereinafter referred to as said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification, for the purpose of laying pipelines for the transportation of motor spirit, superior kerosene oil and high speed diesel from the Irimpanam installation of Bharat Petroleum Corporation Limited. Irimpanam, Kochi in the State of Kerala to Karur in the State of Tamil Nadu and pipelines should be laid by M/s.Petronet CCK Limited;
>
> And, whereas, the copies of said Gazette notification has been made available to the public from the 10th day of

December 1999;

And, whereas, the competent authority has under sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And, whereas, the Central Government, after considering the said report, is satisfied that the said lands are required for laying of the pipelines for the transport of petroleum products;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule appended to this notification, are hereby required for laying the pipelines;

And further in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall, instead of vesting in the Central Government, vest, from the date of the publication of this declaration, in the Petronet CCK Limited, free from all encumbrances."

In my opinion, the afore notification is in two parts. The first part is with reference to the vesting of the "right of user" under the provisions of Section 6(1) on the Central Government. The latter part is with reference to the provisions of Section 6(4) as regards vesting of the property on Petronet CCK instead of the

Central Government, free from all encumbrances.

17. Both sides admit that the properties mentioned in the schedule to Annexure R4(a) notification is a continuous stretch of land passing through various survey numbers in various Villages with a width of 18 feet and that out of the said 18 feet of properties, Petronet CCK has only utilized 9 feet of land for laying their pipelines.

18. In the light of the afore, it is further admitted by all that an area of 9 feet was not originally utilized though the "right of user" was acquired by the Central Government and vested on the Petronet CCK. The fact that as regards the entire 18 feet of properties, compensation under Section 10 was fixed and paid to the petitioners is also not in dispute.

19. It is in the light of the afore, the subsequent notification at Annexure R4(c) is to be noticed. The notification, to the extent relevant herein, reads as under:

"MINISTRY OF PETROLEUM AND NATURAL GAS
NOTIFICATION
New Delhi, the 1st February, 2016

S.O.341(E) - Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No.621 dated 07.03.2000, S.O.No.869 dated 19.04.2000, S.O.1632 dated 21.07.2000, S.O.982 dated 08.05.2000, S.O.2496 dated 14.11.2000, S.O.1455 dated 28.06.2000, S.O.558 dated 15.03.2001, S.O.217 dated 20.01.99, S.O.219 dated 20.01.99 in the following Schedule, the Central Government directed that Right of User in the said land vest in Petronet CCK Limited free from all encumbrances for the purpose of laying pipeline for the transportation of motor spirit, Superior Kerosene and High Speed Diesel from the Irimpanam Installation of Bharat Petroleum Corporation Limited, Irimpanam, Kochi in the State of Kerala to Karur in the State of Tamil Nadu and pipeline should be laid by M/s. Petronet CCK Limited;

And whereas, by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.1427 dated 11.06.2004 as required under explanation-I of the rule of the Petroleum Pipelines (Acquisition of Right of User in Land) Rules, 1963, the Central Government declared the date 15.12.2002 as the date of termination of operation in the state of Kerala after the pipeline has been laid;

Now, M/s.Kochi Salem Pipeline Private Limited intends to lay LPG Pipeline for the purpose of transportation of LPG from Kochi Refinery in the State of Kerala to Salem in the

> State of Tamil Nadu through the ROU in the said lands in Thrissur and Palakkad Districts;
>
> And whereas as Petronet CCK Limited as per their letter No.CHN/CCK/VPT/KSPPL dated 11-8-2015 intimated their in-principle approval to permit M/s.KSPPL to lay their LPG Pipeline from Kochi to Salem in the existing ROU owned by Petronet CCK Limited;
>
> And whereas as the Central Government after considering the request, satisfied that the said lands are required for laying of LPG Pipeline for transportation of LPG from Kochi Refinery to Salem;
>
> And further, in exercise of the powers conferred by Section 4 of Section 6 of the said Act the Central Government hereby directs that Right of User in the said land shall be used by Kochi Salem Pipeline Private Limited for laying LPG Pipeline from Kochi Refinery to Salem and pipeline should be laid by M/s.Kochi Salem Pipeline Private Limited."

20. A reading of the notification issued as above, would show that as regards the laying of pipelines by Petronet CCK, as early as 15.12.2002, the declaration of termination of operation has been made by the Central Government. The 4th respondent intended to lay LPG pipelines from Kochi to Salem through the very same properties covered by Annexure R4(a) notification and

the Petronet CCK had approved the proposal by the Central Government permitting the vesting of the "right of user" with respect to the very same property on the 4th respondent herein. It is in such circumstances that the Government issued Annexure R4(c) by directing the "right of user" with respect to the very same 18 feet of land covered by Annexure R4(a) on the 4th respondent herein.

21. I am of the opinion that Section 6 of the Act only speaks about the acquisition of the "right of user". Such "right of user" can be upon more than one Corporation with respect to the property in question. There is no restriction under the Act with respect to such right of user being transferred or vested on more than one Corporation. This is all the more so, since the property sought to be covered in Annexure R4(c) is the very same property referred to and covered by Annexure R4(a).

22. It may also be added that with respect to the interpretation of the provisions of Section 7(1)(ia), noticed above, the 4th respondent is entitled to lay pipelines on the

property on the basis of the subsequent order at Annexure R4(c).

23. In the light of the afore, I further notice that as regards the stretch of 18 feet of properties owned by the petitioners, pursuant to Annexure R4(a) notification dated 19.04.2000 vesting under sub-section (1) of Section 6 has already taken place followed with the vesting under sub-section (4) therein. Admittedly as against the afore, the compensation is also received by the petitioners. In the light of the above, it is to be noticed that once the "right of user" is so vested in the Government/Corporation and compensation received by the petitioners, it is not the lookout of the petitioners/owners of the properties as to the person (Corporation) who is actually using the property. The complaints raised by the petitioners are essentially to the effect that the "right of user" was only available to the Petronet CCK and not the 4th respondent herein. In **Gulam Mustafa and others v. The State of Maharashtra and others [AIR 1977 SC 448]**, the Apex Court held that even in the face of the authority diverting the property for different purposes,

there cannot be any challenge to the acquisition proceedings. To the same effect is the judgment of the Apex Court in **C. Padma and Others v. Dy. Secretary to the Government of Tamil Nadu and others [(1997) 2 SCC 627]**. The legal position has been summarised by the Apex Court later in **Sulochana Chandrakant Galande v. Pune Municipal Transport and Others [2010 KHC 4525]** as under:

> "16. In view of the above, the law can be summarised that once the land is acquired, it vests in the State free from all encumbrances. It is not the concern of the land owner how his land is used and whether the land is being used for the purpose for which it was acquired or for any other purpose. He becomes persona non grata once the land vests in the State. He has a right to get compensation only for the same. The person interested cannot claim the right of restoration of land on any ground, whatsoever."

The principles laid down as above, in my opinion, would apply to the facts and circumstances of the case at hand also. The petitioners had received compensation under Section 10(4) of the Act as regards the right of user acquired by Annexure R4(a)

and thereafter, the petitioners do not have any say with respect to the actual use of the properties or the subsequent exercise of the power under Section 6(4) in favour of the 4th respondent, especially in view of the admitted position that only 18 feet of land is acquired/used.

24. In the light of the afore, I hold that the 4th respondent is entitled to proceed with the project envisaged in the light of Annexure R4(c).

25. Even on the face of the afore, the second point arises for consideration as to whether the petitioners are entitled for compensation under Section 10.

26. As already noticed, Section 10 provides for compensation with respect to 10% of the market value of the property under sub-section (4) thereto, apart from the compensation for the damage, loss, or injury under sub-section (1) to be determined by taking into account the various scenarios visualized under sub-section (3). It is only the compensation under sub-section 10(4), that cannot be claimed by the

petitioners in the light of the findings on the first question as above. As regards the entitlement for the compensation under sub-section (1), I notice that after 15.12.2002 (declaration of date of termination of operation), the petitioners were enjoying that portion of the 18 feet of land after excluding the land already utilized for laying pipelines by Petronet CCK. It is admitted by both sides that many of such properties were being cultivated also. A perusal of the photographs produced along with the writ petition would also show that on account of the subsequent notification at Annexure R4(c), the 4th respondent has exercised the provisions of Sections 4 and 7 etc. of the Act while surveying, laying pipelines, etc. When that be so, the petitioners, in my opinion, are entitled to compensation under Section 10(1) to be quantified under sub-section (3) with reference to the relevant provisions of the Rules made thereunder. The filing of an application under the Rules has to be made within the time frame fixed under Rule 4 of the Rules. However, the time limit fixed thereunder would have expired with respect to certain claims and

would depend on the issue of the "date of termination of operation" in certain cases. The petitioners have a case that the "date of termination of operation" as regards the 4th respondent has not been notified. In such circumstances, taking note of the fact that the eligibility of the petitioners for compensation under Section 10(1) of the Act is declared only by this verdict, as a one-time measure, I permit the petitioners to file an appropriate claim before the competent authority within 60 days from today - where the time has already expired – and I permit the petitioners to file the claim with respect to the "date of termination of the operation" - in other cases.

Resultantly, these writ petitions are disposed of as under:

i. The challenge against the laying of pipelines by the 4th respondent on the basis of Annexure R4(c) is repelled.

ii. It is declared that the petitioners would be entitled for the compensation prescribed under Section 10(1) of the Act.

iii. The petitioners are permitted to lodge the claim for compensation as laid down under paragraph 26 of this judgment.

Sd/-
HARISANKAR V. MENON
JUDGE

ln

APPENDIX OF WP(C) 12196/2019

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE BASIC TAX RECEIPT NO. 0051144 ISSUED TO THE PETITIONER 22-06-2018.**
EXHIBIT P1(A)	**TRUE COPY OF THE BASIC RECEIPT NO. 00511142 ISSUED TO THE PETITIONER AND HIS BROTHER DATED 22-06-2018.**
EXHIBIT P1(B)	**TRUE COPY OF THE BASIC TAX NO. 00511143 ISSUED TO THE PETITIONER AND THE BROTHER DATED 22-06-2018.**
EXHIBIT P2	**TRUE COPY OF THE INFORMATION DATED 04-01-2019 INCLUDING THE ENCLOSURES OBTAINED UNDER THE RIGHT TO INFORMATION ACT FROM THE PUBLIC INFORMATION OFFICER OF THE 3RD RESPONDENT.**
EXHIBIT P3	**TRUE COPY OF THE SKETCH SHOWING THE ALTERED ALIGNMENT OF THE LPG PIPELINE.**
EXHIBIT P4	**TRUE COPY OF THE NOTICE DATED 13--10-2018 ISSUED TO THE PETITIONER UNDER SECTION 3(1) OF THE ACT PROPOSING FRESH ACQUISITION.**
EXHIBIT P5	**TRUE COPY OF THE REPLY DATED NIL FURNISHED BY THE PETITIONER AND OTHER LAND-OWNERS.**
EXHIBIT P6	**TRUE COPY OF THE NOTICE OF HEARING DATED 24-11-2018.**
EXHIBIT P7	**TRUE COPY OF THE STATEMENT DATED 29-11-2018 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
EXHIBIT P8	**TRUE COPY OF THE INFORMATION OBTAINED FROM THE SECRETARY, NENMANIKKARA GRAMA PANCHAYATH DATED 21-12-2018.**
EXHIBIT P9	**TRUE COPY OF THE INFORMATION DATED 04-01-2019 RECEIVED FROM THE OFFICE OF THE DISTRICT FIRE OFFICER, FIRE AND RESCUE SERVICES.**

EXHIBIT P10 **TRUE COPY OF THE STATEMENT FILED BY THE 3RD RESPONDENT IN WP(C) 3256 OF 2019 SANS THE ANNEXURE.**

EXHIBIT P11 **TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DATED 28-3-2019 ALONG WITH THE REPORT ENCLOSED THERETO.**

EXHIBIT P12 **TRUE COPY OF THE NOTICE DATED 08.06.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

RESPONDENTS' EXHIBITS:

EXHIBIT-R4(A) **TRUE COPY OF THE LAYOUT PLAN OF THE 4TH RESPONDENT'S PETROL PUMP DATED 21/03/2003.**

EXHIBIT-R4(B) **TRUE COPY OF THE D & O LICENCE DATED 30/04/2019 ISSUED BY THE NEYYATINKARA GRAMA PANCHAYATH.**

APPENDIX OF WP(C)NO.3256/2019

PETITIONERS' EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE NOTIFICATION DATED 29.05.2015 ISSUED BY THE 1ST RESPONDENT.**
EXHIBIT P2	**TRUE COPY OF THE GOVERNMENT ORDER G.O(RT) NO.90/2019/RD DATED 07.01.2019.**
EXHIBIT P2(A)	**TRUE COPY OF THE NOTIFICATION BEARING NO.SO 2650(E) DATED 23.09.2015**
EXHIBIT P2(B)	**TRUE COPY OF THE NOTIFICATION BEARING NO.SO 341(E) DATED 01.02.2016.**
EXHIBIT P3	**TRUE COPY OF THE REPRESENTATION DATED 06.10.2016 SUBMITTED BY THE THEN KOCHI-SALEM PETROLEUM GAS PIPELINE SURAKSHITHATHVA NASHTAPARIHARA JANAKEEYA SAMITHI BEFORE THE 3RD RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF THE LETTER DATED 20.04.2017 ISSUED BY THE 3RD RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF THE PHOTOGRAPH SHOWING THE EXCAVATION ACTIVITIES.**
EXHIBIT P6	**TRUE COPY OF THE PHOTOGRAPHS SHOWING THE NATURE OF ACTIVITIES UNDERTAKEN IN CONNECTION WITH THE LPG PIPELINE PROJECT.**
EXHIBIT P7	**TRUE COPY OF THE LETTER ISSUED BY THE AGRICULTURAL OFFICE, KRISHI BHAVAN, THENKURISSI TO THE 4TH RESPONDENT DATED 20/6/2019.**
EXHIBIT P8	**TRUE COPY OF THE LETTER ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, KUZHALMANDAM TO THE 4TH RESPONDENT DATED 20/6/2019.**
EXHIBIT P9	**TRUE COPY OF THE LETTER ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN,**

WADAKKANCHERRY DATED 21/6/2019.

EXHIBIT P10	**TRUE COPY OF THE PHOTOGRAPHS SHOWING THE PRESENT STATUS OF THE LAND UNDER WHICH PIPELINE IS BEING LAID.**
EXHIBIT P11	**TRUE COPY OF THE ORDER NO.34/2019/KADY-1 DATED 06.01.2021 OF COMPETENT AUTHORITY KOCHI – SALEM PIPELINE PVT. LTD (KSPPL).**
EXHIBIT P12	**TRUE COPY OF THE MAHAZAR OF COMPETENT AUTHORITY (KSPPL) DATED 25.04.2020.**
EXHIBIT P13	**TRUE COPY OF MINUTES OF THE MEETING DATED 15.12.2016 PRESIDED OVER BY THE 3RD RESPONDENT DEPUTY COLLECTOR & COMPETENT AUTHORITY.**
EXHIBIT P14	**PHOTOGRAPHS OF SOME OF THE LANDS USED FOR LAYING PIPELINE.**
EXHIBIT P15	**TRUE COPY OF THE SOIL TESTING REPORT OF THE PROPERTY OF BABU DEVASSYKUTTY IN SY.NO.248 DATED 06.03.2025.**
EXHIBIT P16	**TRUE COPY OF THE SOIL TESTING REPORT OF THE PROPERTY OF BABU DEVASSYKUTTY IN SY.NO.248-1 DATED 06.03.2025.**
EXHIBIT P17	**TRUE COPY OF THE SOIL TESTING REPORT OF THE PROPERTY OF ANILKUMAR O S, SY.NO.930/3 DATED 06.03.2025.**
EXHIBIT P18	**TRUE COPY OF THE SOIL TESTING REPORT OF THE PROPERTY OF TAJI ANTONY, SY.NO.243, 244 DATED 06.03.2025.**
EXHIBIT P19	**TRUE COPY OF THE SOIL TESTING REPORT OF THE PROPERTY OF JJI MON N A, SY.NO.245/5 DATED 06.03.2025.**
EXHIBIT P20	**TRUE COPY OF NAME AND DETAILS OF MEMBERS OF PETITIONER ASSOCIATION.**

RESPONDENTS' ANNEXURES:

ANNEXURE R4(A)	**TRUE COPY OF NOTIFICATION SO 869 DATED 19.04.2000 AND SO 1455 DATED 28.06.2000 ISSUED BY THE CENTRAL GOVERNMENT.**
ANNEXURE R4(B)	**TRUE COPY OF NOTIFICATION S.O.2650(E) DATED 23.09.2015.**
ANNEXURE R4(C)	**TRUE COPY OF NOTIFICATION S.O.341(E) DATED 01.02.2016.**
ANNEXURE R4(D)	**TRUE COPY OF INTIMATION NO.1236 GIVEN TO 2ND PETITIONER DATED 14.05.2016.**
ANNEXURE R4(E)	**TRUE COPY OF INTIMATION NO.1306 GIVEN TO 3RD PETITIONER DATED 24.03.2016.**
ANNEXURE R4(F)	**TRUE COPY OF INTIMATION NO.166/ELPY GIVEN TO 4TH PETITIONER DATED 13.01.2016.**
ANNEXURE R4(G)	**TRUE COPY OF INTIMATION NOS.1272/1281/1282 GIVEN TO 5TH PETITIONER DATED 17.05.2016.**