

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

I.A. NOS. 2-4 in TRANSFER PETITION (CIVIL.) NO(s). 513-515 OF 2007  
AND I.A. NOS. 5-22 in TRANSFER PETITION (CIVIL.) NO(s). 513 OF 2007  
AND I.A. NO. 5 in TRANSFER PETITION (CIVIL.) NO(s). 514 OF 2007  
I.A. NOS. 8-10 in TRANSFER PETITION (CIVIL.) NO(s). 515 OF 2007

PETRONET LNG LIMITED TR.DY.MANAGER.

Petitioner(s)

VERSUS

GUJARAT STATE PETROLEUM CORP.& ORS.

Respondent(s)

(for vacating stay and leave to file appln. for vacating stay, exemption from filing c/c of the impugned judgment and O.T., impleadment as part respondent namely State of Maharashtra, Maharashtra State Electricity Distribution Co. and vacating stay in IAS. 5-6 AND intervention/impleadment on behalf of RGPPL applicant and impleadment and exemption from filing typed copies of Annexures and permission to file addl. affidavit and counter affidavit.)  
IA NO. 23 IN TP(C) No.513 (for vacating stay)

WITH  
TP(C) Nos. 557-564/2007 (with appl(s) for ex parte stay and office report)

Date: 22/08/2007 These Petitions were mentioned today.

CORAM :  
HON'BLE MR. JUSTICE ASHOK BHAN  
HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s) Mr. Dushyant Dave, Sr. Adv.  
In TC 513/07 & Mr. N.L. Ganapathi, Adv.  
R-4 in TC 514-515. Mr.Dhananjay Shahi, Adv.

In TC 514/07 and Mr. Sudhir Chandra Aggarwal, Sr.Adv.  
R-3 in 513 & 515. Mr. Ashish Dholakia, Adv.  
Ms. Sumita Hazarika, Adv.

In TC 515/07 and Mr. Sudhir Chandra Aggarwal, Sr. adv.  
R-4 in 513-514/07 Mr. Ashish Dholakia, Adv.  
Mr. Abhijit Sengupta, Adv.

For Respondent(s) Mr. Ashok Desai, Sr. Adv.  
R-1 In TP 513/07 Mr. S.N. Soparkar, Sr. Adv.  
Mr. P.H.Parekh, Ms.Aspi M. Kapadia,  
Mr. Sameer Parekh, Mr.Arjun Garg,  
Ms. Diksha Rai, Mr. Shubhranshu Padhi, Advs. for  
M/s. P.H. Parekh & Co.

R-1 In TP 514/07 Mr. P.S. Patwalia, Sr. Adv.  
Mr. P.H.Parekh, Ms.Aspi M. Kapadia,  
Mr. Sameer Parekh, Mr.Arjun Garg,  
Ms. Diksha Rai, Mr. Shubhranshu Padhi, Advs. for  
M/s. P.H. Parekh & Co.

R-1 In TP 515/07 Mr. S.N. Soparkar, Sr. Adv.  
Mr. P.H.Parekh, Ms.Aspi M. Kapadia,  
Mr. Sameer Parekh, Mr.Arjun Garg,  
Ms. Diksha Rai, Mr. Shubhranshu Padhi, Advs. for  
M/s. P.H. Parekh & Co.

For intervenor(s) Mr. P.H. Parekh, Adv.

in TP 513/07 Mr. Sameer Parekh, Kunal Nanavati, Mr.Arjun Garg,  
Ms. Diksha Rai, Mr. Shubhranshu Padhi, Adv. for  
M/s. P.H. Parekh & Co.

For RGPPL Mr. G.E. Vahanvati, SG.  
Mr. Rajiv Dutta, Sr. Adv.  
Ms. Bindu Saxena, Adv.  
Mr. Debashish Bhadra, Adv.  
Mr. Shailendra Swarup, Adv.

For IOC Mr. Sudhir Chandra, Sr. Adv.  
Mr. H.K. Puri, Adv.

For intervenor(s) Mr. G. Umapathy, Adv.  
Mr. A.Leo G. Rozario, Adv.  
Mr. Rakesh K.Sharma, Adv.

For Essar Power Dr. A.M. Singhvi, Sr. Adv.  
For GIPC Mr. Mukul Rohtagi, Sr. Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Kunal Nanavati, Adv.  
Mr. Shamik Sanjanwala, Adv.  
Mr. E.C. Aggrawala, Adv.

For UOI Mr. Mohan Parasaran, ASG.  
Mr. D.L. chidananda, Adv.  
Mr. K.K. Dhawan, Adv.  
Mr. P. Parmeswaran, Adv.

In TC 513-514/07 Mr. Vivek Tankha, Sr. Adv.  
R-5 Mr. P. Yogeshwaran, Adv.  
Dr. Rajiv Dhawan, Sr. Adv.  
Mr. L.R. Singh, Adv.  
Mr. Ravi Prakash, Adv.  
Ms. Neelam Singh, Adv.  
Mr. Varun Aggarwal, Adv.  
Mr. Vikrant Ghumare, Adv.

UPON being mentioned counsel the Court made the following  
ORDER

1. On 31st of July, 2007, considering the urgency in the matter, the  
Transfer Petition Nos. 513, 514 and 515 of 2007 were taken on board at the  
mentioning stage and notice was ordered to be issued in the aforementioned  
three transfer petitions.

2. On being given to understand that the case was being taken up by the  
Gujarat High Court and there being every possibility of an interim order being  
passed therein, we had made it clear that in case the High Court entertains  
the Special Civil Applications (Writ Petitions) and passes an interim order,  
the same shall be subject to the outcome of these transfer petitions. The  
liberty was also granted to the petitioners to approach this Court for vacation  
of interim order/stay, if passed/granted by the High Court.

3. It is stated that Special Civil Application Nos. 18868/2007, 19045/2007, 19046/2007, 19048/2007, 19049/2007 and 19050/2007 were taken up for hearing by the Gujarat High Court on the same date, i.e. 31st July, 2007, barely after one hour of passing of the aforesaid order by this Court.

4. Before the learned Single Judge of the High Court of Gujarat, during the course of the hearing, a prayer was made on behalf of the petitioners in SCA No. 18868 of 2007 filed by the Gujarat State Petroleum Corporation Limited (GSPCL) to delete Respondent Nos. 2 to 5, namely, Petronet LNG Limited (Respondent No.2), Gas Authority of India Limited (Respondent No.3), Indian Oil Corporation Limited (respondent No.4) and Bharat Petroleum Corporation Limited (Respondent No.5). In other words, all the respondents except the Union of India were ordered to be deleted by the learned Single Judge hearing the Special Civil Applications on the request of the counsel for the petitioners therein and in view of the averments made in paragraph no. 6 of the Application. In rest of the five Applications, there was no order for deletion of any of the respondents. In Special Civil Application Nos. 19046/2007, 19048/2007, 19049/2007 and 19050/2007, GAIL and the Union of India were the only respondents while in SCA No. 19045/2007, Union of India, GAIL and Gujarat State Petroleum Corporation Limited (GSPCL) were the respondents.

5. The learned Single Judge before whom the Special Civil Applications were placed for hearing, issued notice returnable for 9th of August, 2007 to the Union of India, which is the only remaining respondent in the aforesaid Special Civil Application and ad interim relief was granted to the petitioner till the 9th of August, 2007 by staying the operation, implementation and execution of the impugned communication dated 6th March, 2007 issued by the Union of India. Request made by the counsel appearing for the Union of India, i.e., Respondent No.1 for a short adjournment to enable him to get the instructions or to file reply was declined by the learned Single Judge.

6. Aggrieved against the aforesaid order passed by the High Court, the present Interlocutory Applications have been filed by the four respondents who were ordered to be deleted by the learned Single Judge of the High Court of Gujarat. They claim to be the contesting respondents and also claim that

their interests are vitally affected by the interim order passed by the High Court. We feel that they should not have been permitted to be deleted. They are accordingly ordered to be restored as party-respondents.

7. Having heard the learned Solicitor General, Additional Solicitor General and learned senior counsels appearing for the private parties, we deem it appropriate to set aside the order passed by the learned Single Judge granting interim stay for the reason that the same has been granted without affording due opportunity of hearing to the original respondent nos. 2 to 5 and the Union of India as well. The request made by the counsel for the Union of India for grant of a few days' time to file reply to the Special Civil Applications has been declined by the impugned order. In our view, any such order in the circumstances of this matter should have been passed after hearing the parties including the Union of India. The stay granted by the High Court in all the afore mentioned six Special Civil Applications is also vacated.

8. All the six Special Civil Applications mentioned above are ordered to be placed before a Division Bench to be constituted by the Hon'ble Chief Justice of the Gujarat High Court. The Division Bench so constituted shall take up the said Applications for hearing afresh on 10th of September, 2007 on day-to-day basis and pass appropriate orders thereon, in accordance with law. The original Respondent Nos. 2 to 5 and the Union of India shall file their response to the Special Civil Applications on or before the 5th of September, 2007. Replication, if any, be filed within three days thereafter.

9. The parties to the Applications are represented before us. They are directed to accept notice and they are deemed to have been served with the Applications to be heard by the Division Bench of the Gujarat High Court. No fresh notice need be given to them by the High Court on the Applications for stay.

10. The learned Solicitor General appearing for the Ratnagiri Gas & Power Pvt. Ltd., Dr. Dhawan, learned senior counsel appearing for the State of Maharashtra and the Electricity Distribution Company have prayed for being impleaded as party respondents. Counsel for the respondents (petitioners in

the High Court) have no objection to their impleadment. Accordingly, they are impleaded in the transfer petition(s) as party-respondents, as prayed for. They shall also file their response. Rest of the applicants who have filed application(s) for impleadment before us, may approach the High Court for their impleadment.

11. As stated above, nothing stated herein be taken as an expression of opinion on the merits of the dispute. The Division Bench shall proceed with the matter in accordance with law.

12. All contentions are left open to be adjudicated by the High Court.  
13. All the applications stand disposed of accordingly.

14. Transfer petitions be listed after the decision of the High Court on the stay applications.

TP© Nos. 557-564/2007

15. Issue notice.

16. The respondents are represented before us in the other connected petitions and they undertake to file their respective Vakalatnamas in these petitions too. Service is waived on them. They may file their reply within two weeks.

(J.S. Rawat)  
AR-cum-PS

(Kanwal Singh)  
Court Master