

Nandatai

Vs

State of Maharashtra and Others

SLP No. 17207 of 1996

(K. Ramaswamy, G. B. Pattanaik, Faizanuddin JJ)

10.09.1996

ORDER

1. This special leave petition arises from the judgment and order of the Bombay High Court, Nagpur Bench, made on 8-3-1996 in WP No. 3161 of 1983. The admitted position is that notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short, "the Act") was published in the Gazette and thereafter it was published in the locality on 15-9-1992. The land originally belonged to Sudam Z. More, the father-in-law of the petitioner. It would appear that at a family settlement due to incompatibility of the petitioner in living with her husband, mutual divorce was effected in consideration of her walking out from the marital home. After divorce, 2 acres 5 gunthas of land in Survey No. 16 of Jambhakhurd was given to the petitioner. Under Rule 1 of the Rules made under the Act by the Maharashtra Government, notice was given to the father-in-law of the petitioner, namely, S. More. He filed his objections. Admittedly, the divorce deed was executed on 2-6-1992 and on her own admission she made an application to the Patwari for mutation on 6-6-1992, the date of the issuance of the notification under Section 4(1) and on the date of issue of notice under Rule 1 mutation was not effected and her name was not brought on record as an owner of the land. On the other hand, the holder of the land was admittedly her father-in-law and notice was given to him. The question arises : whether the failure to give notice vitiates the enquiry conducted under Section 5-A of the Act and by operation of sub-section (2) of Section 5-A, the proceedings of enquiry are vitiated. It is true that sub-section (2) of Section 5-A as amended by Act 68 of 1984 envisages that notice on the owner or persons interested or any authorised person on his behalf shall be given and a right of hearing also shall be given, on objections being filed. On such objections, after making such further enquiry, if any, as he thinks necessary, the Land Acquisition Officer shall report in respect of the land whether notified under Section 4 or any different parcel of the land was needed for the public purpose to the appropriate Government containing his recommendations on the objections together with the record of the proceedings held by him for decision of the Government. In this case since holder on record has already been given notice and he filed his objections after enquiry, he was heard. The omission to give notice to the petitioner who subsequently became owner of the property does not vitiate the enquiry conducted under Section 5-A nor is the enquiry violative of sub-section (2) of Section 5-A. The High Court, therefore, was right in refusing to interfere with the declaration published under Section 6 and notification published under Section 4.

2. The special leave petition is accordingly dismissed.