

A

NANDATAI

v.

STATE OF MAHARASHTRA AND ORS.

SEPTEMBER 10, 1996

B [K. RAMASWAMY, FAIZAN UDDIN AND G.B. PATTANAİK, JJ.]

*Land Acquisition Act, 1894 :*

C *Sections 4, 5A and 6—Enquiry under S.5A—Landholder given notice—He filed his objections and was heard—Subsequent transfer of land—Omission to give notice to the subsequent owner—Does not vitiate the enquiry—High Court right in refusing to interfere with the declaration and the notification published.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition No. 17207 of 1996.

From the Judgment and Order dated 8.3.96 of the Bombay High Court in W.P. No. 3161 of 1993.

Uday Umesh Lalit for the Petitioner.

E The following Order of the Court was delivered :

F This special leave petition arises from the judgment and order of the Bombay High Court, Nagpur Bench, made on March 8, 1996 in W.P. 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 September 15, 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 marital home. After divorce, 2 acres 5 gunthas of land in Survey No. 16 of G Jambhakhurd was given to the petitioner. Under Rule 1 of 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 June 2, 1992 and on her own H admission she made an application to the Patwari for mutation on June 6,

1992 on 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 5A of the Act and by operation of Sub-section (2) of Section 5A; the proceedings of enquiry are vitiating. It is true that sub-section (2) of Section 5A 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 5A nor is the enquiry violative of sub-section (2) of Section 5A. The High Court, therefore, was right in refusing to interfere with the declaration published under Section 6 and notification published under Section 4.

The special leave petition is accordingly dismissed.

G.N.

Petition dismissed.