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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5641 OF 2014

Chhaya Ramesh Ghadge & Ors. ...Petitioners
vs.
Union of India & Ors. ...Respondents

Mr.Nitin Dalvi for the Petitioners
Mr.V.S.Gokhale, AGP for the respondent Nos.3 and 4.

CORAM : A.S.OKA, &
V.L.ACHLIYA, JJ.
DATE : OCTOBER 27, 2015

P.C.:

1 The learned counsel for the petitioners pointed out that a notification contemplated by sub-section (1) of section 3A of the National Highways Act, 1956 (for short 'the said Act') dated 28th December 2012 has been published on 11th January 2013. His submission is that the notification issued under sub-section (1) of Section 3D of the said Act is of 17th February 2014. His submission is that in view of sub-section (3) of section 3D, a declaration under sub-section (1) of section 3D ought to have been published within a period of one year from the date of publication of the notification under sub-section (1) of section 3A. The submission is that as the declaration is not published within a period of one year specified in sub-section (3) of section 3D, the notification under sub-section (1) of section 3A has lapsed.

2 We have considered the submissions. Section 3-A of the said Act reads thus:

"3-A. Power to acquire land etc -

(1) Where the Central Government is satisfied that for a public purpose any land is required for the building, maintenance, management or operation of a national highway or part thereof, it may, by notification in the Official Gazette, declare its intention to acquire such land.

(2) Every notification under sub-section (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which will be in a vernacular language."

3 The publication of notification under sub-section (1) of section 3A is completed when the substance of the notification is published in two local newspapers one of which is in vernacular language. Going by the Exhibit-A, the notification under sub-section (1) of section 3A is published in daily 'Tarun Bharat' on 15th January 2013 and in daily 'Pandhari Sanchar' on 23rd February 2013. Therefore, the publication in accordance with sub-section (3) of section 3A was made on 23rd February 2013. Therefore, assuming that the declaration under sub-section (1) of section 3D of the said Act was published on 17th February 2014, the same is made well within a period of one year specified under sub-section (3) of section 3D.

4 There is one more aspect of the matter. As per sub-section (1) of section 3D, the declaration has to be published in Official Gazette. Under section 3D, there is no further requirement of publication by any other mode. Exh.A shows that the declaration was published in Government Gazette dated 13th December 2013. In fact, what is annexed as Exh.A is a copy published in newspaper of the Government notification published on 13th December 2013.

4 Hence, there is no merit in the challenge based on sub-section (3) of section 3D of the said Act. Writ petition is accordingly rejected.

(V.L.ACHLIYA,J.)

(A.S.OKA,J.)