

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 10072 OF 2014

Bharat Bhalchandra Shinde

... Petitioner

v/s

The Union of India & ors.

... Respondents

Mr.Prajakt M. Arjunwadkar for the petitioner.

Smt.S.I. Shah i/by Ms.J.N. Pandhi for respondent No.1.

Mr.Vikas Mali, A.G.P for Resp. Nos.4, 6 and 7.

***CORAM: SMT. VASANTI A. NAIK &
SHRI C. V. BHADANG, JJ.***

DATED : 9TH FEBRUARY, 2015

P.C.:

Heard.

By this petition, the petitioner seeks a declaration that the provisions of Section 3G(3) of the National Highways Act, 1956 are unconstitutional.

The petitioner has challenged the award passed in the land acquisition proceedings, dated 27th June 2014 by the Competent Authority under the National Highways Authority of India. The petitioner seeks a declaration that the respondent Nos.8 to 20 do

not have any right to receive the compensation and the entire compensation towards acquisition of the lands in question ought to have been paid to the petitioner.

The petitioner has challenged the provisions of Section 3G(3) of the National Highways Act, 1956 only on the ground that they contemplate a notice vide the newspapers and do not provide for a personal notice as provided in Section 11 of the Land Acquisition Act, 1894. It is stated that, by the award passed by the Competent Authority, the compensation towards the acquired lands is being paid to the petitioner and the respondent Nos.8 to 20, though the petitioner is entitled to the entire compensation. It is stated that, merely because the names of the respondent Nos.8 to 20 appear in the 7/12 extract, the compensation amount cannot be disbursed to them.

On hearing the learned counsel for the parties and on reading of the provisions of the National Highways Act, 1956 and the Land Acquisition Act, 1894, we find that there is no reason to consider the challenge to the provisions of Section 3G(3) of the National Highways Act, 1956. In the instant case, the notice was issued by the Competent Authority under Section 3A of the National Highways Act, 1956 and the petitioner was also heard on the objections under Section 3C thereof. If the petitioner was aware of the issuance of the notification under Section 3A by reading the same in the newspapers, the petitioner cannot be heard to say that

the petitioner was not aware about the determination of the amount of compensation as a personal notice was not issued to the petitioner under Section 3G of the Act. In the facts of the case, we are not inclined to consider the objection raised by the petitioner to the validity of the provisions of Section 3G(3) of the Act of 1956.

About the grievance of the petitioner to the adequacy of compensation or the persons to whom the same is payable, the petitioner has remedies under the provisions of the Act of 1956 and the petitioner is free to avail those remedies. The question whether the petitioner is solely entitled to receive the compensation towards the acquisition of the lands, cannot be determined in exercise of the writ jurisdiction.

Hence, we dismiss the writ petition with no order as to costs.

The points raised in the petition in regard to the adequacy of the compensation and the persons to whom it is payable are, however, kept open. Order accordingly.

(C. V. BHADANG, J.)

(VASANTI A. NAIK, J.)