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*News, Views and Updates*

### **LATEST IN LEGAL ARENA**

**November 01, 2016**

#### **Constitutionality of Section 56 of Civil Procedure Code upheld**

The Bombay High Court in a recent Judgment has dismissed a petition challenging the constitutionality of Section 56 of the Code of Civil Procedure, 1908 on the ground that it was violative of Articles 14 and 15 of the Constitution.

Section 56 of the Code of Civil Procedure, 1908 prohibits arrest or detention of women in execution of decree for money and reads as follows: *“Notwithstanding anything in this part, the court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for the payment of money.”*

The Court amongst other judgments referred to the judgment of Kerala High Court in *Cyril Britto v. Union of India*, where the Bench had specifically rejected the contention that Section 56 of the Code of Civil Procedure which prohibits arrest or detention of women in the execution of a decree for the payment of money is ultra vires as it is violative of Articles 14 and 15 of the Constitution. The Court recorded that taking into consideration the object of such provision, the classification between men and women was quite reasonable and that the classification had sufficient nexus with the object. The Court further held that the section which makes special provision for women, was clearly a provision relatable to Article 15(3) of the Constitution which states that ‘Nothing in the article shall prevent the State from making any special provision for women and children’ and therefore there was no reason to declare the same as unconstitutional.

#### **Notice issued to UOI in petition seeking direction to specify what constitutes disrespect and abuse of National Anthem**

In the writ of mandamus seeking a direction asking the Union of India to specify what constitutes disrespect and abuse of the National Anthem, the Supreme Court, considering the plea of the petitioner, issued notice to the Union of India returnable within 3 weeks. Stating certain examples that on one occasion, during an interview, the National Anthem was played to test the behavioral pattern of the candidate and that on certain occasions, the same is played in a variety show to dramatize the whole thing, the petitioner contended that sometimes the National Anthem is sung in various circumstances which are not permissible and cannot be legally countenanced regard being had to the national honour. It was also prayed that directions should be issued that the

Anthem in an official function and the functions where certain constitutional dignitaries are present in strict compliance.

### **The Benami Transactions (Prohibition) Amendment Act, 2016 comes into force on 01.11.2016**

The Benami Property Transactions Act, 1988 has been amended by the Benami Transactions (Prohibition) Amendment Act, 2016 (BTP Amendment Act). The rules and all the provisions of the BTP Amendment Act comes into force on 01.11.2016. The existing Benami Transactions (Prohibition) Act, 1988 has been renamed as Prohibition of Benami Property Transactions Act, 1988 (PBPT Act).

The PBPT Act defines benami transactions, prohibits them and further provides that violation of the PBPT Act is punishable with imprisonment and fine. The PBPT Act prohibits recovery of the property held benami from benamidar by the real owner. Properties held benami are liable for confiscation by the Government without payment of compensation. An appellate mechanism has been provided under the PBPT Act in the form of Adjudicating Authority and Appellate Tribunal. The Adjudicating Authority referred to in section 6(1) of the Prevention of Money Laundering Act, 2002 (PMLA) and the Appellate Tribunal referred to in section 25 of the PMLA have been notified as the Adjudicating Authority and Appellate Tribunal, respectively, for the purposes of the PBPT Act.

### **Relaxation of additional fees and extension of last date of filing AOC-4, AOC-4 (XBRL), AOC-4 (CFS) and MGT-7 e-forms under the Companies Act, 2013**

In continuation of General Circular No. 08/2016 dated 29.07.2016 issued by the Ministry of Corporate Affairs, keeping in view the requests received from various stakeholders, it has further extended the last date for filing of financial statements and annual returns using e-forms AOC-4, AOC-4 (XBRL), AOC-4 (CFS) and MGT-7, as the case may be, without payment of additional fee, wherever applicable, till 29.11.2016.

**For any clarification or delineation, feel free to contact us.**



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**AMC Law Firm, Advocates & Solicitors**  
B-30, LGF, Lajpat Nagar 3, New Delhi - 110024 | India  
Phones: 91-11-41354354, 41078082  
Fax : 91-11-29841673  
[info@amclawfirm.com](mailto:info@amclawfirm.com)

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