

THE STATE OF GUJARAT AND ANR. ETC.
v.
DEVRAJBHAI CHHAGANBHAI AND ORS. ETC.

AUGUST 8, 1996

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

Land Acquisition Act, 1894 :

S.11(2)—Compensation in terms of agreement—Land owners having agreed to payment of compensation at the rate of Rs. 140 per guntha besides the additional compensation at the rate of 20% on account of development of land, solatium at the rate of 15% and interest prevailing on the date of agreement—Held, are not entitled to benefits available under Amendment Act 68 of 1984.

State of Gujarat & Ors. v. Daya Shamji Bhai & Ors., [1995] 5 SCC 746, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2754 of 1987 Etc.

From the Judgment and Order dated 21.7.86 of the Gujarat High Court in S.C.A. No. 5916 of 1983.

S. Hazarika, N. Mukherjee and H. Wahi for the Appellants.

Jatin Jhaveri and H.J. Jhaveri for the Respondents.

The following Order of the Court was delivered :

Leave granted in SLP.

The only question that arises in these cases is : whether the respondents, having agreed under Section 11(2) of the Land Acquisition Act, 1894 (for short, the 'Act') to payment of the compensation in terms of the agreement @ Rs. 140 per guntha besides the additional compensation at the rate of 20% on account of development of the land and solatium @ 15% and interest prevailing as on that date, were entitled to claim the benefit under the Amendment Act 68 of 1984? This Court in *State of Gujarat & Ors. v. Daya Shamji Bhai & Ors., [1995] 5 SCC 746* considered

- A the question elaborately and held that the parties having entered into the agreement under Section 11(2) were bound by the agreement and thereby, they were not entitled to any benefit other than what was agreed upon. Therefore, the High Court was not right in the impugned order passed in the review petition in allowing the enhancement under the Amendment Act. It is sought to be contended by the learned counsel for the respondents that under 16 of the agreement since there is no agreement as regards the rate of interest, the claimants are entitled to statutory rate of interest under Section 28 as amended in Act 68 of 1984. We do not appreciate the contention to be correct. Parties having agreed to the payment of interest on the date of the contract, the rate of interest admittedly payable being 4-1/2%, they are entitled to interest at 4-1/2% and not to the enhanced rates under proviso to Section 28 of the Act, as amended by Act 68 of 1984.
- B
- C

The appeals are allowed and order in the review petition stands dismissed but original order stands confirmed. No. costs.

R.P.

Appeals allowed.