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THE STATE OF GUJARAT
v.
GOPALBHAI BECHARBHAI ETC.

AUGUST 21, 1996

B

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

Land Acquisition Act, 1894 : Sections 11, 12(2), 18(2) and 31.

C

Land acquisition—Award—Application for reference—Time limitation for filing—Award passed on June 26, 1981—Notice under Section 12(2) issued on September 18, 1981—Application seeking reference under Section 18 filed on July 30, 1985 i.e. after lapse of 3 years from the date of receipt of notice—Application rejected by Land Acquisition Officer—Writ—High Court directing the State to make reference—Appeal preferred by State—Held since the application came to be filed a long after about three years from the date

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of the award, the direction issued by the High Court is clearly illegal.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1964 of 1989 Etc.

E

From the Judgment and Order dated 9.3.88 of the Gujarat High Court in S.C.A. No. 5825 of 1986.

Ms. N. Mukherjee and Mrs. H. Wahi for the Appellant.

The following Order of the Court was delivered :

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These appeals by special leave arise from the judgment dated March 9, 1988 of the High Court of Gujarat in SCA No. 5825/86 and batch directing the appellant to make a reference to the civil Court. The controversy is no longer *res integra*.

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The admitted facts are that the award under Section 11 of the Land Acquisition Act, 1894 was passed on June 26, 1981. Notice under Section 12(2) was issued on September 18, 1981. After lapse of three years, an application came to be filed on July 30, 1985 seeking reference under Section 18. The Land Acquisition Officer (Deputy Collector) rejected the application on December 16, 1985. Challenging that order, the writ petition

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came to be filed. In view of the provisions in Section 18(2) read with

Section 31 of the Act, after the notice was received under Section 12(2) A
the claimants are required to file an application under Section 18 seeking
reference within a period of 30 days from the date of the award when the
claimants were present at the time of making the award either in person B
or through counsel or within six months from the date of the receipt of the
notice. In view of the fact that notice was issued on September 18, 1981,
the application should have been filed within six weeks from the date of
the Collector's award when the person was present or was represented by
the counsel before the Collector or six weeks from the date of the receipt C
of the notice under sub-section (2) of Section 12 or within six months from
the date of the Collector's award, whichever period shall first expire. Since
the application came to be filed a long, after about three years from the
date of the award, the direction issued by the High Court is clearly illegal.

The appeals are accordingly allowed. No costs.

T.N.A.

Appeals allowed.