

State of Gujarat and Another

Vs

Devrajbhai Chhaganbhai and Others

State of Gujarat and Another

Vs

Bachu Makod and Others

Civil Appeals No. 2754 of 1987

(K. Ramaswamy, G.B. Pattanaik JJ)

08.08.1996

ORDER

1. Leave granted in SLP.

2. 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 per cent on account of development of the land and solatium @ 15 per cent 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 v. Daya Shamji Bhai [(1995) 5 SCC 746] considered 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 clause 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 per cent, they are entitled to interest at 4 1/2 per cent and not to the enhanced rates under proviso to Section 28 of the Act, as amended by Act 68 of 1984.

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