

State of Gujarat

Vs

Gopalbhai Becharbhai

Civil Appeals No. 1964 of 1989 with Nos. 1965-73 of 1989

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

21.08.1996

JUDGMENT

1. These appeals by special leave arise from the judgment dated 9-3-1988 of the High Court of Gujarat in SCA No. 5825 of 1986 and batch directing the appellant to make a reference to the civil court. The controversy is no longer res integra.
2. The admitted facts are that the award under Section 11 of the Land Acquisition Act, 1894 was passed on 26-6-1981. Notice under Section 12(2) was issued on 18-9-1981. After lapse of three years, an application came to be filed on 30-7-1985 seeking reference under Section 18. The Land Acquisition Officer (Deputy Collector) rejected the application on 16-12-1985. Challenging that order, the writ petition 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) 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 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 18-9-1981, 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 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 after a long time, after about three years from the date of the award, the direction issued by the High Court is clearly illegal.
3. The appeals are accordingly allowed. No costs.