

PETITIONER:  
SAURASHTRA CEMENT & CHEMICAL INDS. & ANR.

Vs.

RESPONDENT:  
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 17/10/2000

BENCH:  
G.B.Pattanaik, U.C.Banerjee

JUDGMENT:

L.....I.....T.....T.....T.....T.....T.....T.....T..J

PATTANAIAK, J.

These appeals raise a common question of law as to the Constitutional validity of Section 9(3) of the Mines and Minerals (Regulation and Development) Act, 1957 [hereinafter referred to as the Act], inter alia on the ground that the levy of royalty on minerals is not a tax and the Union Legislature do not have the powers under Entry 54 of List I to enact such a law which denudes the right of the State Legislature to levy tax on mineral rights under Entry 50 of List II. A further contention also has been advanced in some of these appeals that the enactment of the Act, violates the provisions of Articles 268, 269 and 270 of the Constitution, and, therefore, Section 9(3) must be declared to be ultra vires. When the writ petition, challenging the vires of the provisions of Section 9(3) of the Act was filed before the Gujarat High Court, a Bench of the Gujarat High Court, dismissed the same, following the decision of the Supreme Court in the case of India Cement Ltd. and Ors. vs. State of Tamil Nadu and Ors., 1990 (1) SCC 12, and following an earlier decision of the said High Court in Special Civil Application No. 6226/94. Subsequent to the decision of this Court in India Cement, all the questions raised in these appeals have been considered by a three Judge Bench in the case of State of Madhya Pradesh vs. Mahalaxmi Fabric Mills Ltd. and Ors., 1995 Supp. (1) SCC 642, and this Court in Mahalaxmi's case, rejecting the contentions raised by the consumers of minerals, upheld the validity of the Act and set aside the order of the High Court. Since the judgment of this Court in Mahalaxmi, deals directly on all issues raised in this batch of appeals, Mr. Chidambaram, the learned senior counsel, submitted with force that this batch of appeals should be referred to a larger Bench, as the Bench while disposing of Mahalaxmi's case, had assumed some legal position erroneously, to be the law laid down by this Court in India Cement. Mr. Shanti Bhushan, the learned senior counsel, appearing for the appellants in some other appeals, however contended that the Constitutional validity of Section 9(3) of the Act has not been tested in the anvil of Articles 268, 269 and 270 of the Constitution and, therefore the matter remains wide open for being re-considered by this Court notwithstanding the three Judge Bench judgment in Mahalaxmi.

Before dealing with the contentions raised by the learned counsel, appearing for the appellants, we think it appropriate to briefly notice how this Court has dealt with the law relating to the Mines and Minerals (Regulation and Development) Act, 1957 in different cases. The first decision which requires to be noticed in this connection is the case in *The Hingir-Rampur Coal Co., Ltd. and Ors. Vs. The State of Orissa and ors.*, 1961 (2)S.C.R. 537. In the said case, the competency of the State Legislature to enact Orissa Mining Areas Development Fund Act, 1952, was under consideration and one of the contentions in this Court was such a legislation made by the State Legislature is ultra vires the law made by Parliament under Entry 54 of List I. The Majority judgment answered the question and held that in the absence of requisite parliamentary declaration necessary under Entry 54 of List I, the State Legislature cannot be denuded of its power under Entry 23 of List II and the competence of the State Legislature under Entry 23 read with Entry 66 of List II was not impaired in any manner. The Court, therefore, upheld the validity of the legislation made by the State Legislature. In elaborating the discussion, this Court had observed that the limitation imposed by the latter part of Entry 23 of List II is a limitation on the legislative competence of the State Legislature itself and the test whether a statute passed by the State Legislature thereunder was ultra vires would be whether the requisite declaration under Entry 54, List I has been made by Parliament by law covering, the same field or not. Considering the effect of Entries 23 and 66 of List II and Entry 54 of List I, the Court observed:

The effect of reading the two Entries together is clear. The jurisdiction of the State Legislature under Entry 23 is subject to the limitation imposed by the latter part of the said Entry. If Parliament by its law has declared that regulation and development of mines should in public interest be under the control of the Union, to the extent of such declaration the jurisdiction of the State Legislature is excluded. In other words, if a Central Act has been passed which contains a declaration by Parliament as required by Entry 54, and if the said declaration covers the field occupied by the impugned Act, the impugned Act would be ultra vires, not because of any repugnance between the two statutes but because the State Legislature had no jurisdiction to pass the law.

In the case of *State of Orissa vs. M.A. Tulloch and Co.*, 1964(4) S.C.R. 461, the question for consideration before this Court was whether the continued operation of the Orissa Mining Areas Development Fund Act, 1952 and the continued exigibility of the fees leviable from mine-owners under the said enactment, is legally and constitutionally permissible. The contention raised was that the Mines and Minerals (Regulation and Development) Act, 1957 called the Central Act was brought into force from June 1, 1953 and the Orissa Act which had been enacted by virtue of the legislative power conferred by Entry 23 of the State Legislative List would cease to be operative, once the Parliament made a declaration and enacted the law. The High Court of Orissa had upheld the contention and came to hold that the Orissa Act should be deemed to be non-existent as from June 1, 1958 for every purpose, with the consequence that there was lack of power to enforce and realise the demands for the payment of the fee at the time when the demand was issued and was sought to be enforced. After

noticing the Entry 23 in List II and Entry 54 in List I, the Court observed that it does not need much argument to realise that to the extent to which the Union Government had taken under its control the regulation and development of minerals so much was withdrawn from the ambit of the power of the State Legislature under Entry 23 and legislation of the State which had rested on the existence of power under that entry would to the extent of that control be suspended or be rendered ineffective, for here we have a case not of mere repugnancy between the provisions of the two enactments but of a denudation or deprivation of State legislative power by the declaration which Parliament is empowered to make and has made. It would, however, be apparent that the States would lose legislative competence only to the extent to which regulation and development under the control of the Union has been declared by Parliament to be expedient in the Public interest. But having held so, as the liability to pay the fee, which was the subject of the notices of demand had accrued prior to June 1, 1958, the date on which the Central Legislation occupied the field, the Court held that those notices were valid and the amount due thereunder would be recovered notwithstanding the disappearance of the Orissa Act by virtue of the superior legislation by the Union Parliament. In *India Cement Ltd. and Ors. Vs. State of Tamil Nadu and Ors.*, 1990(1) S.C.C., 12, the question for consideration was whether levy of cess on royalty is within the competence of the State Legislature? In the aforesaid case, under Section 115 of the Madras Panchayats Act, as amended by the Madras Act 18 of 1964, the lessee of minerals was required to pay local cess @ 45 paise/rupee, as royalty. The contention on behalf of the State, relying upon the observation made by this Court in *H.S.R. Murthys case*, 1964(6) S.C.R., 666, was repelled and it was held:

It seems, therefore, that attention of the Court was not invited to the provisions of Mines and Minerals (Development and Regulation) Act, 1957 and Section 9 thereof. Section 9(3) of the Act in terms states that royalties payable under the Second Schedule of the Act shall not be enhanced more than once during a period of four years. It is, therefore, a clear bar on the State legislature taxing royalty so as to in effect amend Second Schedule of the Central Act. In the premises, it cannot be right to say that tax on royalty can be a tax on land, and even if it is a tax, if it falls within Entry 50 will be ultra vires the State legislative power in view of Section 9(3) of the Central Act.

The Court also rejected the contention on behalf of the State that under Entry 50 of List II, there is no limitation to the taxing power of the State and held that in view of express provisions of Section 9(2) of the Mines and Minerals (Regulation and Development) Act, 1957, the submission cannot be accepted and the field is fully covered by the Central Legislation. In paragraph 34 of the judgment, the Court concluded:

We are of the opinion that royalty is a tax, and as such a cess on royalty being a tax on royalty, is beyond the competence of the State legislature because Section 9 of the Central Act covers the field and the State legislature is denuded of its competence under Entry 23 of List II. In any event, we are of the opinion that cess on royalty cannot be sustained under Entry 49 of List II as being a tax on land.

Royalty on mineral rights is not a tax on land but a payment for the user of land.

In Orissa Cement Ltd. vs. State of Orissa and Ors., 1991 Supp.(1) S.C.C. 430, the levy of cess on royalty, charged for mining lease under Orissa Cess Act, came up for consideration. After elaborate discussion of the legislative entries as well as the history leading to the enactment and considering the different decisions right up to the decision of the Supreme Court in India Cement, the Court held in para 39:

To take up Entry 50 first, a perusal of Entry 50 would show that the competence of the State legislature with respect thereto is circumscribed by any limitations imposed by Parliament by law relating to mineral development. The MMRD Act, 1957, is there can be no doubt about this a law of Parliament relating to mineral development. Section 9 of the said Act empowers the Central Government to fix, alter, enhance or reduce the rates of royalty payable in respect of minerals removed from the land or consumed by the lessee. Sub-section (3) of Section 9 in terms states that the royalties payable under the Second Schedule to that Act shall not be enhanced more than once during a period of three years. India Cement has held that this is a clear bar on the State legislature taxing royalty so as, in effect, to amend the Second Schedule to the Central Act and that if the cess is taken as a tax falling under Entry 50, it will be ultra vires in view of the provisions of the Central Act.

Considering, the provisions of Entry 23 of List II, the Court observed:

But Entry 23, it will be seen, is subject to the provisions of List I with respect to regulation and development of mines and minerals under the control of the Union. Under Entry 54 of List I, regulation of mines and mineral development is in the field of Parliamentary legislation to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest. Such a declaration is contained in Section 2 of the MMRD Act, 1957, which has been set out earlier. It, therefore, follows that any State legislation to the extent it encroaches on the field covered by the MMRD Act, 1957, will be ultra vires. The assessee contends, in this case, that the legislation in question is beyond the purview of the State legislature by reason of the enactment of the MMRD Act. It would appear, prima facie that the contention has to be upheld on the basis of the trilogy of decisions referred to at the outset viz. Hinger-Rampur, Tulloch and India Cement. They seem to provide a complete answer to this question.

In State of Orissa and Ors. Vs. Mahanadi Coalfields Ltd. and Ors., 1995 Supp.(2) S.C.C., 686, the validity of the Orissa Rural Employment, Education and Production Act, 1992 was under challenge and the Orissa High Court had struck down the Act on the ground that the levy is a tax on minerals and mineral rights and the subject is fully covered by the Central Legislation by enacting Mines and Minerals (Regulation and Development) Act. This Court examined the different relevant entries in List I and List II, more particularly, Entry 54 of List I and Entry 23 and Entry 50 of List II and came to hold:

It appears to us that Entry 49 of List II is the general entry which enables the State Legislature to impose taxes on lands and buildings. A particular category or specie is taken out of the general entry, and is provided by Entry 50 of List II. But the tax that can be levied under List II Entry 50 is subject to limitations imposed by Parliament by law relating to regulation of mines and mineral development. Similarly, under List II Entry 23, though the State Legislature can enact a law relating to regulation of mines and mineral development, it is subject to the provisions of List I (Legislation by Parliament) with respect to regulation and development under the control of the Union. In other words, if the impugned Orissa Act 36 of 1992 falls either under List II Entry 50 or List II Entry 23, it is subject to the law made by Parliament relating to the regulation of mines and mineral development (List I Entry 54). A perusal of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957), Section 2, 3(a) and 3(d), Section 9 and 9-A and Second and Third Schedules to the Act, quoted in para 3 (supra) will clearly point out that taxation on mineral and mineral rights, viz. any tax, royalty, fee or rent are provided in the said Act. In particular, Section 9A Provides payment of dead rent as provided therein by the holder of a mining lease to the State Government at the rates specified in the Third Schedule to the Act. And the proviso thereto states that in cases where the holder of the mining lease is to pay royalty under Section 9, he shall be liable to pay either royalty under Section 9 or the dead rent, as provided under Section 9-A, whichever is greater. Section 9-A enables the Central Government to enhance or reduce dead rent by amending the Third Schedule. The Second and the Third Schedules provide varying rates for different minerals including coal. Since exhaustive provisions as also the Parliamentary declaration, contemplated by List I Entry 54, have been made in the Mines and Mineral (Regulation and Development) Act, 1957, regarding all kinds of taxation on minerals and mineral rights tax, royalty fee -- dead rent etc., the State Legislature is denuded or deprived of the power to enact any law or to impose any tax or other levy with reference to List II Entry 23 or List II Entry 50."

It is no doubt true that in all the aforesaid decisions, it is only the validity of the Legislation made by State Legislature, which was under challenge but that will not in any way alter the ratio of the cases, referred to above, in construing the different legislative entries and the competence of the Union Legislature as well as the State Legislature. In Mahalaxmis case 1995 Supp.(1) S.C.C. 642, the validity of the Central legislation was under challenge and the three Judge Bench upheld the legislative competence of the Union Legislature, in enacting Mines and Minerals (Regulation and Development) Act, 1957, more particularly, Section 9 thereof as well as the power of the Central Government to enhance or reduce the rate of royalty, payable in respect of minerals and it was held that the parliamentary legislation under 1957 Act, having occupied the entire field, neither Entry 23 of List II nor Entry 50 of the said List, could be attracted. The Court also in addition, came to hold that the royalty being a tax on mineral including land, labour and capital employed in extraction of the mineral, it would fall under the residuary Entry 97 of List I.

In view of the aforesaid decisions of this Court, on interpreting the different legislative entries, conferring power on the Union Legislature as well as the State Legislature and the law made by the Parliament in enacting the Mines and Minerals (Regulation and Development) Act, 1957, we would now examine the contentions raised by Mr. Chidambaram and Mr. Shanti Bhusan, appearing for the appellants. According to Mr. Chidambaram, Entry 50 of List II deals with the power of the State Legislature to levy taxes on mineral rights subject to any limitation imposed by Parliament by law relating to mineral development. Entry 54 of List I is the competence of the Union Legislature to make law, regulating Mines and Minerals Development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest and the Mines and Minerals (Regulation and Development) Act, 1957 has been enacted, which can be referable to the aforesaid Entry 54 in List I. In List II, the Regulation of Mines and Minerals Development is provided under Entry 23, and, therefore, State Legislature would have the power to make law, regulating Mines and Minerals Development, but it would be subject to the provisions of List I with respect to Regulation and Development under the control of the Union. It cannot be disputed that the Mines and Minerals (Regulation and Development) Act, 1957 is a legislation made for the development of mines and minerals and has been declared by Parliament to be expedient in the public interest. Mr. Chidambaram contends that the aforesaid Act of 1957 covers the field, so far as Entry 23 in List II is concerned but does not, in any way affect the competency of the State Legislature in the field covered by Entry 50 of List II and in that view of the matter, the provisions of Section 9(3) of the Act which purports to denude the power of the State Legislature from levying tax on mineral rights, must be held to be unconstitutional. Mr. Chidambaram, also contends that the power of regulation and control, referable to Entry 54 of List I is separate and distinct from the power of taxation, referable to Entry 50 of List II and such specific power of the State Legislature under Entry 50 of List II, cannot be cut down or fetter in any manner by the general power of control exercised by Parliament by a legislation on a matter falling under Entry 54 of List I. In support of this contention, reliance has been placed on the decision of this Court in the case of State of U.P. and Anr. vs. Synthetics and Chemicals Ltd. and Anr., 1991(4) S.C.C.139. Mr. Chidambaram, also urged that in a federal system of governance, as in our country, the Constitution itself has clearly demarcated the legislative field for levying tax by the Union and the State and so far as, the Union is concerned, those entries are Entries 82 to 92 in List I and so far as the State is concerned, those entries are Entries 45 to 63 in List II of the Seventh Schedule. The field of levy of tax having been clearly demarcated and limitations and restrictions having also mentioned therein, the Mines and Minerals (Regulation and Development) Act, 1957, cannot be held to be an Act, authorising levy of tax on minerals, as the competence of the Union Legislature in the aforesaid legislation is referable to Entry 54 of List I and by such general enactment, the distinct taxing power of State on Minerals under Entry 50 of List II of the Seventh Schedule, cannot be obliterated and denuded and, therefore, the provisions of the 1957 Act, purporting to taking away the power of the State Legislature must be struck down. Mr. Chidambaram, being conscious of the Three Judge Bench of

this Court in Mahalaxmi, submitted that it would be only appropriate to refer the matter to a larger Bench. Mr. Chidambaram, also lastly urged that in Mahalaxmi, the Court was not sure about the legislative competence of the Parliament under Entry 54 of List I, for upholding the validity of Section 9 of the 1957 Act and that is why, it took recourse to the residuary power under Entry 97 of List I and in view of the specific taxing power under Entry 50 of List II, the residuary power of the Parliament under Entry 97 of List I will not over-ride.

Mr. Shanti Bhusan, the learned senior counsel for the appellants in some of these appeals, contended that in none of the cases, this Court has considered the provisions of Articles 268 to 272, contained in Part XII of the Constitution, and, therefore, the matter requires further examination.

After the conclusion of the arguments on behalf of the appellants, the decision of this Court in B.A.Jayaram and Ors. Vs. Union of India and Ors., 1984(1) S.C.C. 168, has been brought to the notice, where-under the Court was construing Entry 57 of List II and Entry 35 of List III and the power of levying tax on vehicles suitable for use on roads and the Court held that it is the State Legislature, which has the power to levy taxes on vehicles suitable for use on roads, though it may be open to Parliament to lay down the principles on which taxes may be levied on mechanically propelled vehicles.

Mr. S.K. Dholakia, the learned senior counsel, appearing for the State of Gujarat as well as the learned counsel, appearing for the Union of India, on the other hand submitted that Entry 50 of List II itself contains an in-built limitation, the same being limitation imposed by the Parliament by law relating to mineral development. Since MMRD Act is a law made by Parliament, relating to minerals development, any provision in the aforesaid Act would over-ride the taxing power of the State on minerals and in this view of the matter, the MMRD Act, must prevail. It was also contended that this Central Legislation has been in the field for more than 45 years and the provisions thereof have been interpreted by this Court in several cases, as referred to, both in India Cement and Mahalaxmi, and, therefore, it would be futile to refer the matter to a larger Bench for reconsideration. According to Mr. Dholakia, the Three Judge Bench Judgment in Mahalaxmi, covers all the points urged and, therefore, these appeals should be dismissed.

Having considered the rival submissions, although, we find the arguments advanced by Mr. Chidambaram are attractive, but in view of the series of decisions, already referred to, we do not think it appropriate to refer these appeals for the decision of a larger Bench and in our opinion, the contentions raised have been fully covered by the Three Judge Bench Judgment of this Court in Mahalaxmi. Royalty on minerals is a tax, is concluded by the Seven Judge Judgment of this Court in India Cement. The power of State Legislature under Entry 50 in List II namely tax on minerals vis-a-vis Section 9(3) of the MMRD Act, 1957 made by Parliament under Entry 54 of List I was also considered in the case of India cement and it was held that in any event, it would be outside the competence of the State Legislature in view of Sections 9 and 9(3) of the Mines and

Minerals (Regulation and Development) Act, 1957. In fact, the Court in India Cement, did not accept the earlier judgment of this Court in H.S.R.Murthys case, on the ground that in Murthy, the attention of the Court had not been invited to MMRD Act and Section 9 thereof. In paragraph 30 of the Judgment in India Cement, the Court held:

It is, therefore, a clear bar on the State legislature taxing royalty so as to in effect amend Second Schedule of the Central Act.

In the aforesaid India Cement case, the Court had also further held that since the control of mines and minerals development were taken over by Parliament, the impost by the State Legislature either under Entry 49 or 50 of List II, cannot be upheld. The Court had also held that tax on minerals is covered by Section 9 of the Central Act and the entire field is thus covered. Though, the validity of a State legislation was under consideration, but the conclusion of this Court was that for levying a tax on minerals under the MMRD Act, the Central Legislature was fully competent in view of the declaration made by the Parliament and on the other hand State Legislatures have been denuded of its power. In Mahalaxmi, however, as already stated, the validity of the Central Legislation was under challenge, as in the present case and the Court upheld the provisions of MMRD Act and Section 9 and 9(3) thereof, by holding that by Entry 54 of List I, it was within the legislative competence of Parliament to make the law in question and neither Entry 23 of List II nor Entry 50 of List II would be attracted. It is no doubt true that in the aforesaid case, the Court had also held that Entry 97 of List I will confer the legislative competence, but not because the Parliament has no competence under Entry 54 of List I, but that was an additional prop, and, therefore Mr. Chidambaram is not right in his submission that the Court took recourse to the residuary power under Entry 97 of List I. In Synthetic Chemicals case, 1991(4) S.C.C. 139, this Court no doubt had observed that the power of regulation and control is separate and distinct from power of taxation, but while considering Entry 50 of List II and comparing with Entry 54 of List II, this Court had observed that the wide taxing power of the State under Entry 54 of List II and its conditional or restricted taxing power, for example, over mineral rights, mentioned in Entry 50 of the said List is significantly different. Thus, the Court itself noticed the conditional or restricted taxing power of the State Legislature under Entry 50, the same being limitations imposed by Parliament by law, relating to mineral development and the MMRD Act being a law made by Parliament relating to mineral development, obviously because of Section 9 in the Central Act, the State Legislature is denuded of its power and at the same time, the Parliaments competence to have the law made, no longer remains in doubt. The aforesaid decision, therefore is of no assistance. In B.A.Jayaram and Ors. Vs. Union of India and Ors., 1984(1) S.C.C., 168, the two entries, which were for consideration before this Court were Entry 57 of List II and Entry 35 of List III. Entry 57 is itself subject to Entry 35 of List III and, therefore, question for consideration was, what was the content and extent of power under Entry 35 of List III which reads: Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied. In construing Entry 35 of List III, this Court held that it would be open to Parliament to lay down the

principles on which taxes may be levied on Mechanically propelled vehicles, but Parliament, while enacting the Motor Vehicles Act, more particularly, Section 63(7) thereof, refrain from indicating any such principles, either expressly or by necessary implication and, therefore, the States power to tax on such motor vehicles under Entry 57 of List II was left un-inhabited. But in the case in hand, the Seven Judge Bench judgment in India Cement as well as the other decisions including the three Judge Bench Judgment in Mahalaxmi, have already held that the Union Legislature did have the competence under Entry 54 of List I to enact MMRD Act, 1957 and Section 9 and 9(3) thereof provide for levy of royalty on minerals and, therefore, we are bound by the same and the aforesaid decisions relied upon by Mr. Chidambaram will not assist the appellants.

Articles 268 to 272 in Part XII of the Constitution deal with the distribution of revenue between the Union and the States. In Part XII of the Constitution, Article 265 provides that there cannot be any levy of collection of tax without the authority of law. The expression authority of law refers to a valid law which means the tax proposed to be levied must be within the legislative competence of the legislature imposing the tax ; and the law must be validly enacted; the law must not be a colourable use of or a fraud upon the legislative power to tax; the law must not violate the conditions of fundamental right as that in Article 19(1)(a) or 19(1)(g); it must not also contravene the specific provisions of the Constitution which impose limitation on legislative power relating to particular matters like Articles 276 to 286 or 301 and ; the tax must be authorised by such valid law. The constitutional provisions dealing with the distribution of revenue between the Union and the States contained in Articles 268, 269 and 272 depends upon the fact when a particular legislation is attacked on any one of these grounds and an examination of those assertions. The legislation in question namely the MMRD Act and its validity has been upheld as already stated in the anvil of Article 265 inasmuch as it has been held that the tax levied on minerals under Section 9(3) of the Act is by virtue of a valid legislation made by the Parliament in exercise of its legislative competence under Entry 54 of List I and no question of violation of fundamental right arises. In one of the judgments, it has been held that the power cannot be held to be in colourable use of legislative power. In that view of the matter on the submissions made by Mr. Shanti Bhushan, we are unable to persuade ourselves to refer these matters for decision of a larger Bench. In the aforesaid premises, these appeals fail and are accordingly dismissed.

A group of writ petitions had been disposed of by the Gujarat High Court, dismissing the same, following the judgment of the said High Court dated 22nd of June, 1994 in Special Civil Application No. 6226 of 1994. While dismissing the writ applications, though the interim orders stood vacated, the Court had not passed any order with regard to payment of interest. But in Special Civil Application No. 6226/94, while vacating the interim order and discharging the rule, the Court has specifically ordered for payment of interest @ 18% per annum. On application for clarification being filed in those group of writ petitions, where no order with regard to payment of interest had been made, the High Court directed the payment of interest @ 18%

per annum, which direction had not been made while disposing of the writ petitions. Those orders of the High Court, clarifying the earlier order directing payment of interest @ 18% per annum, are also subject matter of appeals in some of these appeals including Civil Appeal No. 3119/95. We have heard the learned counsel for the parties and in our considered opinion, the direction to pay interest @ 18% per annum must be held to be unreasonable. We, therefore, modify the same and direct that the interest would be paid @ 9% per annum. Civil Appeal Nos.7607/95 & 7472/94 and SLP(Civil) No.21620/94:--

These Civil Appeals and the Special Leave Petition arise out of judgment of the Madhya Pradesh High Court. The High Court had followed the earlier decision in Mahalaxmi case. The said decision in Mahalaxmi, has been upheld by the Supreme Court in 1995(Supp.) 1 S.C.C.642. Consequently, these appeals and the special leave petition stand dismissed.