

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.78 OF 2015
(Arising out of S.L.P. (C) No.9859 of 2013)

State of Haryana and Others Appellant(s)

Versus

M/s. Padam Chand subhash Chand Respondent(s)
and Another

WITH

CIVIL APPEAL NO.79 OF 2015
(Arising out of S.L.P. (C) No.9860 of 2013)
CIVIL APPEAL NO.80 OF 2015
(Arising out of S.L.P. (C) No.9861 of 2013)
CIVIL APPEAL NO.81 OF 2015
(Arising out of S.L.P. (C) No.9862 of 2013)
CIVIL APPEAL NO.82 OF 2015
(Arising out of S.L.P. (C) No.9863 of 2013)
CIVIL APPEAL NO.83 OF 2015
(Arising out of S.L.P. (C) No.13005 of 2013)

O R D E R

Leave granted.

The singular grievance that has emerged in these appeals by special leave is whether the High Court is justified in placing reliance on the decision rendered in *Haryana State Agricultural Marketing Board and Another vs. Raj Pal*, (2011) 13 SCC 504, for the purpose of coming to hold as follows:

"In the present case, even from the report of the Local Commissioner, it is apparent that the basic amenities such as water supply,

roads and sewerage are available. the allottees have started work in the New Anaj Mandi, which is apparent from the fact that Market Committee has realized substantial amount of market fee from the conduct of the transactions of sale and purchase in new Market yard vis-a-vis the transaction of sale and purchase conducting in old Market yard. The basic amenities have been provided. May be there is scope of improvement of quality of amenities provided, but that will not absolve the allottees/lessees not to pay the interest on the amount of instalments.

On a perusal of the said authority, it is manifest that the two-Judge Bench has noted the contention in paragraph 9, which is as follows:

"The appellants contend that the Market Committee had not undertaken to provide any specific facilities as on the date of auction sale; that the basic infrastructural facilities were available in the market and works relating to other facilities were in progress; that the public notice regarding auction and the allotment letters made it clear that interest was chargeable from the date of allotment; that it was clear from the letters of allotment, that on receipt of the same, the allottees were entitled to approach the Market Committee for possession; that in the absence of any provision that the Market Committee will not be entitled to charge interest until the basic facilities were provided, the terms of allotment providing for payment of interest and penal interest were enforceable; and that the issue of payment of interest/penal interest/cannot be linked to providing of all facilities in the market."

Thereafter, this Court has referred to the decisions

in *UT Chandigarh Admn. vs. Amarjeet Singh*, (2009) 4 SCC 660 and *Municipal Corporation, Chandigarh vs. Shantikunj Investment (P) Ltd.*, (2006) 4 SCC 109 and the rule, that is, Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 1997 (for short, 'the 1997 Rules') and opined as follows:

"The aforesaid decisions, when read with reference to the provisions of the rules applicable make it clear that the allottees were liable to pay the instalments and simple interest thereon in terms of the letters of allotment. However, having regard to the admitted position emerging from the counter affidavit filed by the appellants before the High Court, the basic amenities of water and sewerage disposal were not available when the allotment letters were issued and the said works were commenced only in 2001 and 2002 and were in progress even in the year 2007. It is in these circumstances, apparently, some of the allottees did not commence construction or did not commence their business. Be that as it may.

In view of the principles laid down in *Bahadurgarh Plot Holders' Association (supra)*, *Shantikunj (supra)* and *Amarjeet Singh (supra)*, it is clear that the allottees cannot postpone the payment of instalments merely on the ground that some of the amenities were not ready. If they were not entitled for postponement of the instalments, it follows that they will be liable to pay the normal interest on the delayed instalments up to date of payment. However, having regard to the fact that the Rules did not contemplate compound interest and penal interest and the Market Committee was yet to complete certain infrastructural work like water, sewerage disposal, as held in *Shantikunj (supra)*, the Market Committee will

not be entitled to claim any compound interest or penal interest."

On proper appreciation of the aforesaid paragraphs, it is clear as crystal that in the absence of provisions in the 1997 Rules, no penal interest could be levied. Mr. Hooda has drawn our attention to the fact that *Raj Pal's* case was decided on the basis of the 1997 Rules, but, thereafter, the Rules have been amended in 2000, which is called Haryana State Agricultural Marketing Board (Sale of Immovable Property) Rules, 2000 (for short, 'the 2000 Rules'). Rule 4(6) of the said Rules reads as follows:

"4(6) In case of failure of the allottee to deposit the installment in time penal interest at the rate of four percent per annum to be compounded half yearly shall be charged in addition to the normal interest. In case of default of two successive installments, the plot and the building, if constructed, shall be resumed by the Market Committee after giving an opportunity of being heard to the concerned allottee.

Placing reliance on the same, it is submitted by Mr. Hooda that penal interest is leviable.

At this juncture, Mr. Pardeep Dahiya, learned counsel for the respondent, would contend that when the basic facilities were not provided, question of levying of penal interest does not arise. He has commended us to Rule 5 of the 2000 Rules, which reads as follows:

"5. The possession of the plot shall be

offered to the allottee by the Executive Officer-cum-Secretary, Market Committee within thirty days from the date of issue of allotment letter. If minimum basic facilities i.e. roads, water supply, sewerage, and electrification are existing and if the said basic facilities are not existing, then after providing the said basic facilities."

Ordinarily, we would have adverted to the said contention, but on a scrutiny of the order passed by the High Court, we think that it would be inappropriate to address the same, for the High Court on the basis of material on record has come to hold as follows:

"In *Raj Pal's* case (supra) the Hon'ble Supreme Court has noticed that the Rules did not contemplate charging of compound interest and penal interest. Therefore, the present writ petitions are disposed of with a direction to the respondents to issue revised demand notices claiming simple interest at the rate of 15% per annum. The petitioners shall pay the due amount within three months from the date of receipt of the demand notice. If the amount of interest is not paid, the Market Committee will be entitled to take such action as may be permissible in terms of the Rules in accordance with law."

The said reasoning of the High Court is based on the facts. The respondents have not preferred any appeal and, therefore, it is binding on them. As we find from the impugned order, the High Court has opined that the levy of penal interest is impermissible as there is no provision in the Rules. As we have stated herein-above, the amended Rules enshrine the provision for levy of penal interest.

In view of the aforesaid, we allow the appeals, set aside the order passed by the High Court to the extent it has stated that penal interest cannot be levied. However, it has come to our notice that the resumption had taken place in respect of some of the allottees and, therefore, they shall pay penal interest from the date they were visited with the order of passing of resumption till the date they were put back in possession. Be it stated, this Court on 9th May, 2014, had passed the following order:

"Heard Mr. Narender Hooda, learned senior counsel for the State of Haryana. It is urged by him that there is a provision for imposition of penal interest on the delayed instalment as per rules.

The learned counsel for the respondents submitted that he has already paid the principal amount and the penal interest apart from the extension fee.

Mr. Hooda seriously disputed about the payment of penal interest and extension fee. The said aspect shall be adverted to at the time of final hearing of the special leave petition on 4th August, 2014. However, the petitioners shall hand over the possession of the allotted land to the respondents.

Be it clarified, handing over of possession by the petitioners shall be without prejudice to the contentions raised in this petition."

We must note that Mr. Hooda has submitted that the possession was not taken over. Be that as it may, without entering into the said debate, we would direct that penal interest shall be leviable till the order of resumption and,

thereafter, from 9th May, 2014.

Be it stated, we have only clarified the position as regards the penal interest. It has nothing to do with the levy of simple interest, for that is covered by the decision of the High Court. The exoneration of penal interest is waived regard being had to the special features of the case. The simple interest that has been demanded be paid within six months from today and for the said six months no interest shall be levied, as we are extending the time.

Learned counsel for the respondents submitted that this Court should dislodge the finding of the High Court in exercise of power under Order 41 Rule 33 of the Code of Civil Procedure, but we are not inclined to accept such a prayer.

The appeals are, accordingly, disposed of. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Prafulla C. Pant)

New Delhi;
January 07, 2015.

ITEM NO.204

COURT NO.6

SECTION IVB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.9859/2013

(Arising out of impugned final judgment and order dated 17/05/2012 in CWP No. 19616/2009 passed by the High Court of Punjab & Haryana at Chandigarh)

STATE OF HARYANA & ORS.

Petitioner(s)

VERSUS

PADAM CHAND SUBHASH CHAND & ANR.

Respondent(s)

(With appln. (s) for stay and office report)
(For final disposal)

WITH S.L.P. (C) No.9860/2013
(With office report)

S.L.P. (C) No.9861/2013

S.L.P. (C) No.9862/2013

(With office report)

S.L.P. (C) No.9863/2013

(With office report)

S.L.P. (C) No.13005/2013

(With office report)

Date: 07/01/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Narender Hooda, Sr. Adv.
Mr. Surender Hooda, Adv.
Mr. Kamal Mohan Gupta, AOR

For Respondent(s) Mr. Pardeep Dahiya, Adv.
Mrs. Shiel Sethi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed
order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)