

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 (Civil) No.10946/2001

(From the judgement and order dated 08/01/2001 in RSA 25/01
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

NAND LAL

Petitioner (s)

VERSUS

MAYA DEVI & ORS.

Respondent (s)

(With prayer for interim relief)
(For Final Disposal)

Date : 09/11/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Petitioner (s) Mr. Vimal Chandra S. Dave,Adv.
Ms. Neelam Kalsi,Adv.

For Respondent (s)

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

.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.
The appeal is disposed of in terms of the signed
order.

.SP1

(Neena Verma)
Court Master

(Radha Rani Bhatia)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7866 OF 2001@@
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(@ Special Leave Petition (C) No.10946/2001)

Nand Lal Appellant

Versus

Maya Devi & Ors. Respondents

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

Leave granted.

Parties were partners in a Registered Partnership Firm M/s. Bharat Rice Mills. The partnership was dissolved on 08.02.1980. An amount of Rs.48,298.78 was found to be due and payable to Smt. Maya Devi, the respondent No.1 by other partners of the firm. The assets and liabilities of the firm were taken over by the appellant. The amount was not paid, and therefore, she had to file a suit for the recovery of the same. The First Appellate Court directed this amount to be paid with interest @ 18% per annum for the pre suit period. Pendente lite interest @ 12% was directed to be paid on the decretal amount (which would include the principal amount as also the interest calculated @ 18% till the date of the suit). Further interest @ 6% per annum from the date of the decree i.e. 21.09.2000 till payment was ...2/-

: 2 :

also directed to be paid.

Although there was a controversy as to whether Rs.45,000/- out of the amount due and payable to the respondent No.1. was paid to her but the plea of payment has been negatived by the First Appellate Court as also by the High Court and we do not think that finding is open to question.

Having heard the learned counsel for the parties, we are not inclined to dislodge the findings of fact recorded by the First Appellate Court and maintained by the High Court. We hold that the amount of Rs.48,298.78 was due and payable by the appellant to respondent No.1 on 08.2.1980, the date of dissolution of the firm. However, the award of interest @ 18% per annum for the pre suit period appears to be excessive. It is, therefore, directed that the amount of Rs.48,298.78 with interest calculated @ 12% per annum from 08.02.1980 to the date of the decree and further interest @ 6% per annum on the principal amount i.e. Rs.48,298.78 shall be paid by the appellant to respondent No.1 within a period of three months' from today. The respondent No.1 shall also be entitled to costs as awarded by the First Appellate Court.

The amount so calculated upto the date of this order, shall be payable in three equal instalments falling ...3/-

: 3 :

due on the 9th day of December, 2001 and January and February, 2002. In the event of any default by the

appellant in payment of any of the instalments, the present appeal shall be deemed to have been dismissed and the impugned decree shall stand.

The appeal is disposed of accordingly.

.SP1

.....J.
(R.C. LAHOTI)

New Delhi,
November 09, 2001.

.....J.
(BRIJESH KUMAR)