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SLP(C)No. 10670 OF 1999

ITEM No.202

Court No. 2

SECTION IVB
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.10670/1999
(From the judgement and order dated 09/03/1999 in CR 236/98
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

UNION BANK OF INDIA

Petitioner (s)

VERSUS

NAURANG & ORS

Respondent (s)

(With Appln(s). for appointment of a fresh guardian of respondent
Nos. 3, 4 and 6 and with prayer for interim relief)
(For Final Disposal)

Date : 01/02/2002 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Petitioner (s) Mr. Janendra Lal, Adv.
Ms. Yasmin Tarapore, Adv.
for M/s. Janendra Lal & Co.,Advs.

For Respondent (s) Mr. Neeraj Kumar Jain, Adv.
Mr. Aditya Kumar Chaudhary, Adv.
Mr. Ugra Shankar Pd.,Adv.

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

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

Heard counsel for the parties from 12.10 P.M. to
12.20 P.M.

I.A. No. 1 is allowed.

Special leave granted.

The appeal is allowed in terms of the signed
order.

(D.P. WALIA)
COURT MASTER

(ASHA JOSHI)
COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 911 OF 2002@@

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[arising out of S.L.P.(C) No. 10670 of 1999]

L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R

Union Bank of India Appellant(s)

Versus

Naurang & Ors. Respondent(s)

O R D E R@@

EEEEEEEEEE

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

.SP2

Special leave granted.

In the instant case, the appellant had filed a suit for recovery of money which included interest at the agreed contractual rate. By judgment dated 29th September, 1997, the suit was decreed as follows :

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

.SP1

"Keeping in view the above discussion and reasons set out of the foregoing issues, suit of the plaintiff succeeds and is hereby decreed with costs with effect that Plaintiff-bank is entitled to recover the suit amount of Rs.1,11,647/- (Rs. One Lac Eleven Thousand Six Hundred Fortyseven only) at the agreed rate of interest. It is also ordered that the Plaintiff-bank shall be entitled to get the agreed rate of interest on the suit amount from the date of decree till the date of realisation of the decretal amount. The Defendants are directed to make the payment of the suit amount to the Defendants within six months from the date of this judgment and after that the Plaintiff-bank shall be at liberty to seek the legal remedy for the recovery of the suit amount by sale of hypothecated and mortgaged property by Defendants in favour of the Plaintiff-bank. Decree Sheet be prepared accordingly and file be consigned to the record room after due compliance."

....2/-

:2:

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

.SP2

After the decree was drawn up, an application was

filed on 8th October, 1997 by the appellant before the Court contending that there had been a typographical mistake and the words "from the date of decree" occurring in the judgment should be substituted by the words "from the date of institution of the suit" in so far as they were to relate to the date from which interest was payable. The same trial Judge by order dated 13th November, 1997 accepted that there was a typographical error and the interest was to be from the date of institution of the suit and not from the date of decree. He allowed the application of the appellant and directed the correction of the judgment with the result that the same was to read as follows :

.....L.....I.....T.....T.....T.....J.....
.SP1

"Keeping in view the above discussion and reasons set out of the foregoing issues, suit of the plaintiff succeeds and is hereby decreed with costs with effect that plaintiff-bank is entitled to recover the suit amount of Rs.1,11,647/- (one lac eleven thousand six hundred forty seven only) at the agreed rate of interest. It is also ordered that the plaintiff-bank shall be entitled to get the agreed rate of interest on the suit amount from the date of institution of the suit till the realisation of the decretal amount. The defendants are directed to make the payment of the suit amount to the defendants within six months from the date of this judgment and after that the plaintiff-bank shall be at liberty to seek the legal remedy for recovery of the suit amount by sale of hypothecated/mortgaged property by defendants in favour of the plaintiff-bank. Decree sheet be prepared accordingly. File be consigned to record room."

...3/-

:3:

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

In a revision filed by respondent No. 1, the High Court took the view that the correction made could not be regarded as an accidental omission and, therefore, Section 152, CPC was not applicable. The revision was allowed and the order dated 13th November, 1997 of the trial court was set aside.

We have heard the counsel for the parties. It is clear from the order dated 13th November, 1997 that the learned Subordinate Judge who had passed the original decree has himself held that there was a typographical mistake in the original judgment dated 29th September, 1997. This being so, there would be no warrant for holding that a mistake had not been committed. The author of the judgment himself having admitted that there was a typographical mistake, the High Court, in our opinion, was not right in coming to a contrary conclusion. On this ground alone, we hold that the decision of the High Court was not correct.

We, accordingly, allow this appeal and set aside the decision of the High Court dated 9th March, 1999 in

Civil Revision No. 236/1998.
Parties to bear their own costs.

.SP1

.....J
(B.N. KIRPAL)

.....J
(P. VENKATARAMA REDDI)

.....J
(ARIJIT PASAYAT)

New Delhi;
February 1, 2002.