

ITEM NO.109

COURT NO.8

SECTION XII

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4984-4985 OF 2000

C.V.KRISHNA

Appellant (s)

VERSUS

GOVT. OF TAMIL NADU

Respondent(s)

(With office report)

Date: 17/02/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant(s) Mr. S. Guru Krishna Kumar, adv.

Mr. S.R. Setia, Adv.

For Respondent(s) Mr. S. Prasad, Adv.

Mr. R. Ayyam Perumal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are disposed of. No order as to costs.

(S. Thapar)

PS to Registrar

(Shelly Sengupta)

Court Master

The signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4984-4985 OF 2000

C.V. Krishna
Appellant (s)

Appell

Versus

Govt. of Tamil Nadu
Respondent (s)

Respon

O R D E R

In this appeal, learned counsel for the appellant has raised a very short point. It

arises on the following facts:-

The Award passed by the Arbitrator in favour of the appellant was made a rule of

the court and a decree in terms of the Award was passed by the Civil Court but no interest

from the date of decree till date of payment was made.

The respondent challenged the award. The present appellant had filed a cross

appeal. The cross appeal was limited to the claim of interest on the awarded sum from the date

it was made Rule of the Court to the date of payment. The appeal of the opposite party was

dismissed and the cross appeal was also dismissed.

In the High Court the contention advanced by the appellant was that the civil

court in making award Rule of the Court and passing a decree thereon, ought to have as a

natural consequence granted interest from the date of decree till the date of payment. The

High Court, by the impugned order passed on 24th December, 1997, dismissed the cross appeal

claiming interest from the date of decree till the date of payment. After dismissal of the cross

appeal, the appellant moved a petition for review. As the impugned order dated 11th August,

1998 passed on the review petition indicates a request was made to allow the appellant to

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approach the civil court for correction of the decree under Section 152 C.P.C., so as to grant

interest from the date of decree till the date of payment.

Learned counsel for the appellant, in these appeals before us, relying upon a

decision of this Court in Jagdish Rai & Brothers Vs. Union of India [1993 (3) SCC 257]

submits that instead of relegating the appellant to the Civil Court for making an appli

cation

under Section 152 C.P.C. for correction of the decree, it was open to the High Court to have

granted the relief on the claim of interest.

We have also heard learned counsel for the respondent who opposed such a

prayer and submitted that the cross appeal having been rejected and the amount awarded

having been paid, no further relief should be granted to the appellant.

From the contents of the order made on the Review Petition, we do not find that

the High Court has made any observations which might prejudice the appellant's claim of

amount of interest from the date of decree till the date of payment. The High Court has

allowed the review petition to the extent of permitting the appellant to approach the civil court

under Section 152 C.P.C. and in doing so incidently observed that the question whether

Section 152 C.P.C. can be invoked can also be gone into by the Civil Court. In our opinion, no

further clarification is required. It would be open to the civil court to pass suitable orders on

the application under section 152 C.P.C. filed by the appellant.

In the circumstances, the appeals are disposed of. No order as to costs.

.....J

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KARI)

(D.M. DHARMADHI

.....J

.....

New Delhi,

(G.P. MATHUR)

February 17, 2005