

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.8318 OF 2009
[Arising out of SLP(C) No.29580 of 2009]

M/S OSWAL CHEMICALS & FERTILIS.LD.& ANR ... Appellant(s)

Versus

LALIT KUMAR BAGLA ... Respondent(s)

ORDER

1. At the very initial stage of notice, the Special Leave Petition has been heard out in view of the fact that the respondent was duly represented by learned counsel on caveat.

2. Leave granted.

3. The appeal is directed against the judgment and order dated 01/09/2009, passed by the Division Bench of the Delhi High Court in RFA(OS)93/07, disposing of the appeal and holding that the trial court had correctly awarded the sum of Rs.69 lakhs along with interest from 28 October, 1991. The High Court, however, reduced

2

the interest awarded by the trial court from 18% to 12% per annum.

4. It may be indicated at this stage that at an interim stage of the First Appeal, the Division Bench of the High Court had directed the appellants herein, who were also the appellants in the appeal, to deposit 50% of the principal amount of Rs.69 lakhs in the court and to furnish a bank guarantee for the balance decretal amount awarded with interest @ 10% p.a. instead of 18% p.a. awarded by the learned Single Judge. Subject to such deposit, the execution of the judgment and decree was to remain stayed. It was also indicated that on deposit of 50% of the principal amount of Rs.69 lakhs, the same would be released in favour of the respondent-decree holder, on his furnishing a bank guarantee for the said amount to the

satisfaction of the Registrar. It may be indicated that not only was 50% of the principal amount deposited together with interest calculated @ 10% p.a. but the said amount was also withdrawn by the respondent-decree-holder upon furnishing bank guarantee.

When the appeal is taken up for consideration, it is submitted by Mr. Rajiv Dutta, learned senior counsel appearing for the appellants, that having regard to Section 73 of the Evidence Act, the trial court ought to have itself examined the documents, which were exhibited for the purpose of testing as to whether the

3

signatures appearing thereon belonged to the appellants or not.

Mr. Dutta also submitted that the interest awarded @ 18% was excessive and even the reduction to the rate of 12% requires further modification, having particular regard to the interim order passed by the Division Bench whereby the appellants were directed to deposit the decretal amount with interest @10% p.a.

On behalf of the respondent, Mr. P.K. Ray, learned counsel, urged that having regard to the concurrent findings of fact of both the courts below, the submissions made by Mr. Dutta with regard to Section 73 of the Evidence Act was not tenable. He has also urged that when the Division Bench of the High Court had finally awarded interest @ 12% p.a., the same also did not require any interference.

Having considered the submissions made on behalf of the respective parties, while we do not agree with Mr. Dutta with regard to the application of Section 73 of the Evidence Act to the facts of this case, we are also of the view that the rate of interest, as was indicated in the interim order passed on 18/12/2007, would be appropriate in the facts of the case.

It must also be taken into consideration that the interest was made payable with effect from 28th October, 1991, and that apart

4

from the deposit of 50% of the principal amount, the appellants have also provided bank guarantees for a sum of Rs.1,46,62,500.

Having regard to the submissions made, we dispose of the appeal by reducing the rate of interest from 12% to 10%, as was

For Respondent(s) Mr. Parmit Kumar Ray, Adv.
/caveator Mr. K.K. Mahalik, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

The appeal is allowed and disposed of in terms of the
signed order.

7

(Sheetal Dhingra)
Court Master
[Signed order is placed on the file]

(Juginder Kaur)
Court Master