

**THE HON'BLE SRI JUSTICE K.C. BHANU
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

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AS.No.2492 of 2004

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JUDGMENT: (per Hon'ble Sri Justice K.C. Bhanu)

This appeal, under Section 96 of the Code of Civil Procedure ('the Code' for short), is filed challenging the judgment and decree, dated 03.04.2004, in OS.No.186 of 1998 passed by the Principal District Judge, Ranga Reddy District at L.B. Nagar, insofar as it pertains to the denial of interest on the decretal amount. By the judgment impugned, the learned District Judge decreed the suit of the plaintiff for a sum of Rs.89,49,762/- together with costs, but, however, without awarding any interest on the decretal amount.

2. We have heard learned counsel for the appellant. In spite of service of notice on the respondent, it did not contest the matter.

3. The short point that falls for consideration in this appeal is: whether the appellant/plaintiff is entitled for award of interest from the date of institution of the suit till the date of realisation?

4. Learned counsel appearing for the appellant/plaintiff contends that in view of the provision contained in Section 34 of the Code, the plaintiff is entitled for interest at such rate as the Court deems reasonable to be paid on the principal sum from the date of suit till the date of decree with further interest at such rate not exceeding six per cent, per annum, on such principal sum, from the date of the decree till the date of realisation.

5. Section 34 of the Code reads as follows:

“34. Interest: - (1) Where and insofar as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit

to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate not exceeding six per cent, per annum, as the Court deems reasonable on such principal sum, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit:

Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent, per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.”

6. A bare reading of the above provision makes it clear that it is within the discretion of the Court to grant interest from the date of the suit till the date of the decree at such rate as the Court deems reasonable to be paid and thereafter at such rate not exceeding six per cent, per annum, from the date of decree till the date of realisation. Therefore, we are in full agreement with the arguments advanced by learned counsel for the appellant with regard to award of interest on the decretal amount.

7. Accordingly, the appeal is allowed and the suit is decreed for Rs.89,49,762/- together with costs and interest at 6% per annum from the date of the suit till the date of realisation.

Miscellaneous petitions, if any pending in this appeal, shall also stand dismissed.

K.C. BHANU, J

M. SEETHARAMA MURTI, J

28.01.2015
Vjl