IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 3490 of 1997 (O&M)
Date of decision: 04.03.2015

State Bank of Patiala

... Petitioner

versus

Vijay Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Nitin Kumar, Advocate for the petitioner.

Mr. R.K. Girdhar, Advocate for respondent No.1.

K.Kannan, J.

The revision is by the decree holder against the order passed in execution allowing for 12.5% for future interest namely from the date of the decree till the date of payment and disallowing the insurance premium paid on securities subsequent to the institution of the suit.

The plea is that there was an issue in suit of the interest that the plaintiff was entitled to and the court has held that the Bank was entitled to the compound interest as contracted. This finding I would hold as applicable only till the date of suit and there is no provision in law for compelling the court to award compound interest for future as well. The change that was brought an act had in the Code of Civil Procedure in Section 34 was only to the effect that the court which grants a decree may provide for future interest at such rate not exceeding 6% as the court may deem reasonable with the proviso that was added through the amendment that in relation to a commercial transaction the rate may exceed 6% per annum but shall not exceed the contractual rate of interest. The proviso, therefore, allowed for the discretion to grant future interest in excess of 6% and if there was a reference to the contractual rate it did not make it mandatory every time to allow for a compound interest as well by way of future interest. If the court allowed for 12.5%, I would take it to be a simple interest, for, without a specific reference to compound rate, I will understand the rate of interest as it is normally understood, that it is a simple interest.

There is sufficient case law on the subject that even post payment of insurance premium after the decree will become part of the decree, since the decree allows for enforcement of the security in default of payment. The payment made by a decree holder for protection of such security must be taken to be a liability that could still to be added before the action for sale. If that amount is denied by the executing court that amount shall be allowed to be added. The modification that would required to be made shall be only to the extent of allowing for insurance premium paid by the decree holder on the security subsequent to the suit as also becoming part of the decree holder amount.

The counsel appearing on behalf of the respondents states that the amount granted under the decree has been paid and if it at all, excess amount has been paid.

I make no adjudication on whether there has been a complete satisfaction. I have only indicated the amounts which are claimable. If there is no requirement for an adjudication for determination of the amount payable, party may resort to appropriate directions through petition filed under Section 47 C.P.C.

The civil revision petition is disposed of with above observations.

(K.KANNAN)
JUDGE

04.03.2015
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