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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4200 of 1999 (O&M)
Date of decision:20.01.2015

Pinki General Store and others ...Petitioners

Versus

State Bank of Patiala ...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Amandeep Singh, Advocate, for
Mr. Akshay Bhan, Senior Advocate, for the petitioners.

Mr. A.K.Ahuja, Advocate,
for the respondent.

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Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order dated 17.05.1999 by which objection filed by the judgment debtors-petitioners in execution of the decree for recovery of ₹47,161/- filed by the decree-holder has been dismissed with an observation that the decree-holder can claim interest @ 14.5% per annum with quarterly rests.

In short, the decree holder-bank filed the suit for recovery ₹22,281.87/- in which a consent decree dated 15.10.1988 was passed and the petitioners were allowed to make payment of the decretal amount in monthly installments of ₹600/- till realization of the entire decretal amount. The decree holder-bank was given liberty to recover the balance in lump sum if there was any default in payment of 2 successive installments and was also held entitled to future interest from the date of filing the suit i.e. 16.07.1986 on the principal amount at the agreed interest rate of 14.5% per annum.

The petitioners initially filed the objection on the ground that the rate of interest of 14.5% per annum was excessive and should have been 6% per annum. However, the said prayer was rejected on 26.09.1989 in view of Section 21-A of the Banking Regulation Act, 1949.

Thus, in pursuance of the decree, the petitioners paid as much as ₹25,285.87/- towards the principal amount till 12.02.1997 and ₹12,450/- towards interest and approached the bank for refund of the excess amount vide letter dated 15.06.1992. However, the bank rejected the prayer of the petitioner vide its letter dated 29.07.1992 and imposed further addition as insurance premium, counsel fee and non-judicial stamps in the account of the petitioners and pleaded that since the trial Court had rejected the petitioners' prayer regarding charging of simple interest vide order dated 26.09.1989, therefore, they were calculating the compound interest and as on 16.07.1992, claimed an additional amount of ₹30,450/-. The petitioners then filed another objection petition which was dismissed on 08.12.1994 on the ground that the bank was not seeking any execution and the judgment-debtor could only object subsequently once execution could have been filed. Thereafter, the bank filed the execution claiming a sum of ₹22,281/- as decretal sum, ₹3,014/- as costs of the decree and interest of ₹46,000/- on 17.07.1986 till 31.10.1995 along with costs, expenses and counsel fee of ₹1,145/-. Thus, the total sum of ₹47,161/- was claimed from the petitioners after giving them the benefit of ₹25,285.87/-. The petitioners then filed objections alleging that the decree-holder was to calculate simple interest on the principal amount and compound interest was not permissible as per the decree. The trial Court dismissed the objection vide the impugned order dated 17.05.1999 and hence, the present revision petition.

Counsel for the petitioners has argued that as per the decree dated 15.10.1988, the decree holder-bank has been held entitled to future interest from the date of filing the suit i.e. 16.07.1986 on the principal amount of ₹22,281.87/- at the agreed rate of interest of 14.5% per annum. It is contended that not only the principal amount was categorically defined but also the interest in which there was no element of quarterly rests.

Counsel for the decree holder-bank, however, has argued that the quarterly rests is being charged in terms of the Regulations of the bank but he has not denied that there was no such decree to that effect.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the decree-holder is not entitled to compound interest which was not granted by way of decree. Had the bank been unsatisfied with the rate of interest much-less the compound interest, it could have easily either filed an application before the same Court for that purpose or could have gone in appeal but the Executing Court could not definitely go beyond the decree and has to execute the same as it is in which the compound interest is conspicuous by its absence.

In view of the aforesaid discussion, I find the present revision petition to be meritorious and hence, the same is hereby allowed and the impugned order is hereby set aside.

January 20, 2015 **(Rakesh Kumar Jain)**
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