

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA No.2276 of 2008 (O&M)
Date of decision: 3.12.2015**

Ajay Kumar and others

..... Appellants

Versus

Parmod Kumar (since deceased) through LRs and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? Yes
3. Whether the judgment should be reported in the digest?

Present : Mr. Vikas Kumar, Advocate for the appellants.

Mr. Ashok Aneja, Advocate for the respondents.

ARUN PALLI, J. (Oral)

Concededly, the preliminary decree dated 30.09.1992, passed in a suit for rendition of accounts, was granted in favour of the respondents-decree holders. And as no appeal was preferred against the said decree, the same has since become final. Subsequently, the respondents-decree holders prayed for passing of the final decree and vide judgment dated 10.02.2006, learned trial Court has since passed even a final decree and they were found entitled to recover ₹47,773.20 paise along with interest at the rate of 6% per annum. But as even an appeal against the final decree failed and was dismissed vide judgment dated 6.12.2007, Appellants/defendants are before this Court in the Regular Second Appeal.

The conclusion recorded by the trial Court and affirmed by the Appellate Court, reads as thus:-

14. “The perusal of the plaint of the suit in which preliminary was passed shows that the plaintiffs have claimed interest at the rate of 12% per annum on the amount found due after settlement of account. No doubt, the claim of the plaintiffs regarding interest was refuted in the pleadings set up by the contesting defendants. However, in my considered view, since the question of interest was not involved at the time of passing of preliminary, no reference regarding interest has been made therein, but at the time of passing of final decree regarding the recovery of specific amount, the plaintiffs/applicants are held entitled to interest at a reasonable rate, which according to the facts and circumstances of the case, comes to 6% per annum. Accordingly, the plaintiffs/applicants are entitled to interest on the aforesaid amount at the rate of 6% per annum from the date of passing of the preliminary decree dated 30.09.1992.

15. In the light of the above discussion, final decree is passed with costs in terms the preliminary decree dated 30.9.1992 passed by the Court of Shri V.P.Soni, the then learned Sub Judge II Class, Fazilka in Civil Suit No.273-I of 6.1.1992/30.05.1990 in favour of

plaintiffs/applicants and against the defendants/respondents for the recovery of a sum of Rs.47,773.20 paise alongwith interest at the rate of 6% per annum from the date of passing of the preliminary decree i.e. 30.9.1992 till realization of the whole amount. Final decree be prepared accordingly and the preliminary decree dated 30.9.1992 shall be read as part and parcel of the final decree.

File be consigned to the record room”.

Learned counsel for the appellants could not point out as to how the final decree for a recovery of sum of ₹47,773.20 paise granted in favour of respondents was either contrary to the position on record or suffered from any material illegality. Nothing could be pointed out either that once the respondents were held entitled to a particular amount how could they be deprived of an interest from the date of passing of the preliminary decree till its realization. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

December 3, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**