HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.3433 OF 2010

ORDER:

The Civil Revision Petition is filed against the order dated 01.05.2009 passed in I.A. No.295 of 2004 in O.S. No.414 of 1987 on the file of the I Additional Senior Civil Judge, Guntur.

2) The revision petitioner is the 1st plaintiff in O.S. No.414 of 1987 supra. The trial Court decreed said suit vide judgment and decree dated 30.03.1995. Aggrieved by the same, the defendant Nos.1 and 2—Oriental Insurance Company preferred A.S. No.908 of 1995 before the High Court. The Appeal Suit No.908 of 1995 was allowed on 18.06.2002 by this Court reversing the trial Court's judgment and decree and by directing the 1st plaintiff to pay back Rs.27,07,718-32 ps with interest at 18% per annum to the defendant Nos.1 and 2 from the date of withdrawal and the appellants are also entitled to withdraw the remaining deposited amount lying with the Court in O.S. No.414 of 1987.

3) Pursuant to the appellate Court's reversal appeal decree and judgment, the defendant Nos.1 and 2 (appellants) filed I.A. No.295 of 2004 against plaintiffs under Section 144 and 151 C.P.C for restitution of an amount of Rs.27,07,718-32 ps with interest at 18% per annum from plaintiffs and also for withdrawal of the amount lying in the Court deposit in O.S. No.414 of 1987 with interest accrued thereon. The said I.A No.295 of 2004 was allowed on 01.05.2009 directing the 1st plaintiff (revision petitioner herein) to pay Rs.27,07,718-32 ps with interest at 18% per annum to the defendants from the date of withdrawal and the defendants

are also entitled to withdraw the remaining deposit amount lying in the Court deposit in O.S. No.414 of 1987 and petition was dismissed against 3rd defendant. Impugning the rate of interest 18% per annum as exorbitant and highly excessive, the 1st plaintiff maintained the revision.

4) It is the contention of the learned counsel for the revision petitioner that the Court within the discretionary power under Section 34 C.P.C, should have ordered rate of interest at 6% per annum, the impugned order passed by the lower Court in awarding interest at 18% per annum is unsustainable but for the same is in ignorance of the steep fall in the bank lending rate and also prevailing market rate of interest for the past few decades and thereby, prayed to allow the revision by reducing the rate of interest from 18% per annum to 6% per annum.

5) Even notice served to revision respondents 1 and 2, they failed to attend. Hence taken as heard. Perused the material on record.

6) The material averments of the petition are that the revision petitioner and respondents 3 and 4 filed O.S. No.414 of 1987 on the file of Additional Senior Civil Judge, Guntur seeking damages of Rs.54,39,207/- together with interest at 18% per annum on the principal amount of Rs.37,96,555/- and costs on the ground of fire accident occurred on 14.08.1984 covered under the risk policy. The trial Court decreed the suit on 30.03.1995 and the Oriental Insurance Company preferred an appeal vide A.S. No.908 of 1995 before the High Court and the same was allowed reversing the trial Court's judgment and decree and thereby the

suit claim of O.S. No.414 of 1987 was dismissed by appeal decree and judgment dated 18.06.2002.

7) The only consideration in the revision is thus on justifiability of the discretionary rate of interest at 18% per annum awarded by the lower Court in ordering restitution of the amount and the said benefit availed by the revision petitioner as respondent No.1 before the lower Court. Undisputedly, the trial Court's decree os showing the rate of interest at 18% per annum till date of suit and also pendente liti till date of decree at same rate, but for post liti the rate of interest at 6% per annum. Apart from it, as per the expression of the Apex Court in ***TN Transport vs Raja Priya***[1], there is a steep fall in the bank lending rate of interest, that is also required to take into consideration by the Courts while awarding interest. However, the expression in ***DDA vs Joginder S.Monga***[2], the Apex Court observed that the rate of interest at 12% per annum is just and reasonable.

8) Having regard to the above, there is no basis for the trial Court, that too, when decree of the lower Court reversed by the appellate Court contains the post liti interest only at 6% per annum, in awarding interest at 18% per annum for that period also for restitution. Thereby, to subserve the ends of justice, it is just to reduce the rate of interest from 18% per annum to 12% per annum as per DDA supra from date of withdrawal to date of payment uniformly. No order as to costs.

9) Accordingly and in the result, the revision is partly allowed by reducing the rate of interest from 18% per annum to

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[1] (2005) 6 SCC 236
[2] 2004 (2) SCC 297

12% per annum from the date of withdrawal till date of realisation. No order as to costs.

Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.23.09.2016
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