

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 2768 of 2015 (O&M)

Date of decision: February 9,2016.

Dharamjit Kaur and others

.....Petitioners

VS.

Jang Singh and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE K.KANNAN

Present: Mr. Nand Lal Sammi, Advocate
for the petitioners.

Mr. G.S.Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate
for the respondents.

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

K.KANNAN,J (Oral)

1. The revision is against the order allowing for the decree holder to collect interest at 24% on the advance of ₹ 2,00,000/- that he had admittedly paid pursuant to an agreement of sale. In the suit for specific performance, the plaintiffs have denied the main relief and granted only the alternative relief of recovery of money. There was specific issue framed of whether the plaintiffs are entitled to refund of ₹ 2,00,000/- with interest at the rate of 2% per month. The court, while declining the relief for specific performance, made reference to the return of the amount. In the decree drafted the preamble portion contained reference to the plaintiff's claim for the alternative relief of ₹ 2,00,000/- with interest at 2% per

month, but the decree portion merely referred to the decree as having been granted for recovery. Neither the principal nor interest was specifically mentioned. The plaintiffs had preferred an appeal against the judgment declining the main relief but it was also dismissed.

2. When the decree holder was pressing for ₹ 2,00,000/- with interest at the rate of 24% per annum, the objection was that the decree did not provide for any interest. The executing court, therefore, brought out from the judgment what the issue was only to ensure that there was no inconsistency between the decree and the judgment and the decree must be understood in the context of what the judgment states. The Supreme Court has held in **Bhavan Vaja and others vs. Solanki Hanuji Khodaji Mansang and another AIR 1972 SC 1371** has held that for construing a decree, a Court can and in appropriate cases, ought to take into consideration the pleadings as well as proceedings leading to the decree. Earlier, the Court has held in **Topanmal Chhotamal vs. Kundomal Gangaram and others AIR 1960 SC 388**, that an Executing Court is certainly entitled to look into the pleadings and the judgment. The privy court has also in **Seth Manakchand vs. Chaube Manoharlal and another AIR 1944 PC 46**, underscored the imperatives of a decree to the judgment under Order 20 Rule 6 CPC. For the purpose of interpreting a decree it held, no other document is so directly in point as the judgment or can in the nature of things have comparable force. The court below has observed that it cannot go beyond the decree read in the context of the judgment. The observations are correct and the order passed allowing the interest at the rate claimed by the plaintiffs was justified.

3. The learned counsel appearing on behalf of the judgment debtor states that the petitioners have already paid principal amount with interest at the rate of 6% per annum. The learned counsel argues that he should be granted some time to

make the payment of the balance. Any time that could be granted by the court, after the decree shall be only with the consent of the decree holder in terms of the language employed under Order 20 Rule 11 CPC. I will not therefore, make any specific time limit and it is left to the decree holder to execute it the way it is or grant such reprieve to the judgment debtor as he thinks. There is nothing for the intervention in the order already passed.

4. The Revision petition is dismissed.

FEBRUARY 09, 2016

Rajeev

(K.KANNAN)
JUDGE