IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.7001 of 2014 (O&M)
Date of decision: 6.4.2016

Amandeep Singh

... Petitioner

Versus

Punjab State Civil Supplies Corporation Limited and others

... Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

Present:- Mr.K.S.Dadwal, Advocate,
for the petitioner.

Mr.R.S.Bal, Advocate,
for respondents No.1 and 2.

Ms.Neha Jain, Advocate,
for respondents No.3 to 6.

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

<u>K.KANNAN, J. (Oral)</u>

The judgment debtor seeks to contend that future interest can be only 6% in terms of Section 34 of the Civil Procedure Code.

Admittedly, the suit was contested and a decree was passed by the Additional Civil Judge, Senior Division, Rajpura on 5.3.2003 of whose operative portion reads thus : -

> "suit of the plaintiff succeeds and same stands decreed with costs for the recovery of RS.9,85,573.68 along with interest at the rate of <u>12% per annum from 16.8.1988 till full and final realization of the decretal amount (emphasis applied)</u>."

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The decree holder has sought attachment of the property. The objection taken by the respondent is that interest cannot be claimed at more than 6% per annum and it is possible for the Executing Court to modify the same in the interest of justice in the light of Section 34 CPC.

Learned counsel appearing on behalf of the petitioner cites before me a judgment of the Division Bench of this Court in **Jagdish Chander** v. **Punjab National Bank;** 1994 (1) PLJ 304 that held that it is no more open to doubt that under Section 34 of the Civil Procedure Code, future interest exceeding 6% per annum can be granted if liability adjudged has arisen out of the commercial transaction. It shall, however, not exceed contractual rate of interest. This judgment, therefore, provides as a first matter of principle that future interest can also be above 6% but the limitation is only that it shall not exceed the contract rate. The Division Bench ruling was in a situation that an objection was taken at the stage of execution that the Court while passing a decree, had no jurisdiction to grant more than 6% future interest as the transaction of debt was a crop loan and agricultural loan could not be considered as a commercial loan. The Division Bench was holding that interest up to the date of the suit is a matter of substantive law and interest *pendente lite* is one of procedure with the discretion of the Court. The Court was holding that future interest exceeding 6% per annum could be granted if the liability adjudged has arisen out of a commercial transaction. It observed that the Executing Court could examine if the decree was passed by the Court was in conformity with the first proviso to Section 34 of the Code.

Its axiomatic that an executing court cannot go behind the

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decree. The exception that have been applied in matter relating to rate of interest ought not be understood as making possible an amendment of decree in every situation. The decision cited relates to an admitted case that the loan was for agricultural purpose when future interest would not more than 6%. This case is rested on a cause of action of an alleged negligent handling of stocks of wheat and dead stock articles. The claim should, therefore, be seem as claim for damages by the tortious act of defendant. The debt cannot be taken as arising out of an 'agricultural purpose'. There is no scope for modifying rate of interest subsequently if decree provided for the same.

The orders passed is sustained and revision petition is dismissed.

(K.KANNAN)
JUDGE

April 6, 2016
Paritosh Kumar

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