

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

20 CIVIL APPLICATION NO. 13210 OF 2010
IN SAST/22873/2010

BAPURAO BHANUDAS SIRSAT
VERSUS
ASSISTANT COMMISSIONER,
FOOD AND DRUG ADMINISTRATION BEED AND ORS

...

Advocate for Applicant : Mr. R. K. Jadhavar.

AGP for Respondents: Mr. A. M. Phule.

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CORAM : **N. W. SAMBRE, J.**

DATE : 12th June, 2017.

P.C.:

. Heard Mr. Jadhavar, learned counsel for Applicant / Appellant
and the learned AGP for the Respondents.

2 The appeal is delayed by 92 days and for the reasons disclosed
in the application, the delay caused is condoned.

3 It is the case of the Appellant that at the relevant time he was
posted as Additional Public Prosecutor for a period from 1982 to 1986
and 1989 to 2000. In the said capacity he conducted the matters in
the Court of Chief Judicial Magistrate, Beed. According to him, the
Government of Maharashtra has provided the fee structure to be paid
to the Additional Public Prosecutor and he was entitled for the same at
the rate of Rs.45/- per day in the cases in which he appeared. His suit

came to be dismissed by a judgment and order dated March 14, 2008 passed by the Civil Judge Senior Division as he has failed to establish his right and claim.

4 Being aggrieved thereby, the Appellant preferred Regular Civil Appeal No.151 of 2008 in the Court of District Judge-I, Beed. The learned Appellate Court allowed the appeal and decreed the suit of the Appellant directing payment of Rs.44,280/- towards his legal fees alongwith interest at the rate of 9% per annum.

5 The said judgment dated 21st January, 2010, I am informed by the learned counsel for Appellant, was not questioned in second appeal before this Court and has attained the finality. According to the learned counsel for Appellant, though the claim of the Appellant was allowed in its entirety, however, he is aggrieved by non-payment of interest as claimed. According to him, the Appellant is entitled for interest at the rate of 18% i.e. 9% in addition to what has been granted by the Appellate Court.

6 So as to substantiate the said contentions, Mr. Jadhavar, learned counsel for Appellant would invite my attention to the conduct of the Respondent in not contesting the suit. According to him, once the suit is not contested, it was expected of the Court to allow and

decree the suit to its entirety.

7 After above referred submissions of the learned counsel for Appellant are appreciated particularly in the backdrop of the provisions of Section 34 of the Code of Civil Procedure, it is required to be noted that the interest as is awarded by the Appellate Court to the extent of 9% per annum appears to be just and proper and in tune with the statutory requirements. In my opinion, no substantial question of law is involved in the present second appeal. The appeal as such stands dismissed.

[N. W. SAMBRE, J.]

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