

**THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CCCA.No.183 of 2000**

**JUDGMENT:**

The present appeal is filed challenging the preliminary decree, dated 29.03.2000, passed by the learned IV Additional Chief Judge, City Civil Court, in O.S.No.217 of 1999, awarding pendente lite interest at 12% per annum by fixing six months' time for redemption.

The short question involved in the present regular appeal is whether the award of pendente lite interest at 12% per annum till realization of the suit amount is correct or requires modification.

Admittedly, the decree under challenge is an *ex parte* decree passed against respondents 1 and 2. The plaintiff - Indian Bank is the appellant herein.

Sri P.Shiv Kumar, learned counsel for the appellant, would contend that the Court below was not right in awarding simple interest at 12% per annum and ought to have awarded contractual rate of interest with quarterly rests.

On reading Section 34 of the Code of Civil Procedure, learned counsel for the appellant, would, of course, agree that the award of rate of interest pendente lite and post decree is the discretion of the Court. Turning to the decree under challenge, since it is an *ex parte* decree, it cannot be said that the Court below did exercise the discretion arbitrarily and if it is shown that the exercise of discretion is wholly arbitrary and

not judicious, then only interference is warranted. Therefore, there is no merit in the present appeal.

Accordingly, the CCCA is dismissed. Though, the present appeal was already dismissed for default against respondent No.2 on 19.10.2011, the same would not make any difference in disposing of the present appeal as in the above.

Miscellaneous applications, if any pending in the instant appeal, stand closed. There shall be no order as to costs.

August 21, 2017  
v v

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**A. SHANKAR NARAYANA, J**

