

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.892 of 2017

1. The State of Bihar through the Collector, Madhepura.
2. The Executive Engineer, Drainage Division, Koshi Project, At+P.O. and P.S.- Uda Kishanganj, District- Madhepura.
3. The Engineer-in-Chief-cum-Special Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Kosi Project, At, P.O. and P.S. Birpur, District Supaul.
5. The Superintending Engineer, Drainage Circle, At, P.S. and District- Saharsa.

... .. Petitioners

Versus

Yogendra Narayan Singh, Son of Late Raghu Nandan Singh, Resident of Village Gamali, P.S. Uda Kishanganj, District Madhepura

... .. Respondent

Appearance :

For the petitioners	:	Mr. Sriram Krishna, Advocate Mr. Akaash Chaubey, Advocate
For the State	:	Mr. Shashi Nath Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 28-08-2018

Heard the learned counsel for the petitioner-State and Mr. Shashi Nath Jha, the learned counsel appearing on behalf of the respondent.

2. The petitioners-State filed this civil miscellaneous petition for setting aside the order dated 22.12.2015 and order dated 18.03.2017, passed by Sub-Judge-I, Madhepura in Misc. Case No.26 of 2013 by which the petition of the petitioner for reviewing the order dated 22.12.2015 has been dismissed on 18.03.2017.



3. The respondent filed Money Suit No.1 of 1993 for realization of Rs.38,525/- with interest accruing thereon which comes to Rs.84,149/-. The suit was decreed on 27.06.1997/04.07.1997 for payment of Rs.84,149/- with 14.5% interest thereon till the date of payment. The decree holder filed Execution Case No.9 of 1997 before Civil Judge, Senior Division, Madhepura and on 15.02.1999, a sum of Rs.48,407/- was released for payment to the decree holder and the same was paid through bank draft bearing no.927008. The petitioner paid Rs.74,628/- vide bank draft no.379586 on 23.10.2008 but again the respondent filed Misc. Case No.26 of 2013 before the court for fresh calculation of the principal and aggregate interest amount left to be paid. The learned Sub-Judge on 22.12.2015 directed the petitioners to pay Rs.1,14,662/-. The petitioners filed review petition that the calculation made is erroneous but the same has been dismissed vide order dated 18.03.2017 against which the petitioners have filed this civil miscellaneous petition.

4. The learned counsel for the petitioners submits that the judgment and decree passed in money suit is of Rs.84,149/-. The judgment was delivered on 27.06.1997. The petitioners paid Rs.48,407/- on 18.03.1999. Rs.48,407/- shall be deducted from the principal decretal amount of Rs.84,149/-. The court has directed



for payment of 14.5% simple interest on the decretal amount but on the basis of the wrong calculation made by the respondent which includes the interest on interest. In simple interest the interest on interest is not payable, therefore, the order dated 22.05.2015 and the order dated 18.03.2017 are illegal and bad.

5. Mr. Shashi Nath Jha, the learned counsel for the respondent submitted that the entire case is based on calculation and the court accepted the calculation made by the respondent and accordingly directed to make payment of the decretal amount with 14.5% interest thereon to the respondent and the orders do not require any interference particularly in supervisory jurisdictions.

6. From the perusal of the judgment and decree, it appears that in the money suit Rs.84,149/- was decreed and the petitioners were directed to make payment to the decree holder with 14.5% simple interest. If simple interest is granted, the interest on interest cannot be calculated. First installment of Rs.48,407/- was paid on 30.03.1999. On the date the principal decretal amount was Rs.84,149/- and the interest thereon from the date of judgment and decree till 30.03.1999 comes to Rs.24,403/-. The first installment of Rs.48,407/- shall be deducted from the principal amount of Rs.84,149/- and, therefore, the principal amount remained to be paid after deducting Rs.48,407/- from



Rs.84,149/- comes to Rs.35,742/-. On 21.11.2008, the second installment of Rs.74,628/- was paid to the respondent, therefore, firstly Rs.35,742/-, the principal amount, shall be deducted from Rs.74,628/-. After paying the total principal amount, the remaining amount shall be adjusted towards interest. After payment of entire principal amount on 21.11.2008, the interest stopped running since only the part of interest amount on the principal amount is left to be paid which comes to Rs.32,160/-, therefore, I find that the learned Sub-Judge has committed illegality in calculating the interest on interest on the principal amount. The calculation made by the respondent shows that he has added interest on interest and thus I find that the order dated 22.12.2015 and 18.03.2017 passed in Misc. Case No.26 of 2013 are illegal and not sustainable.

7. Accordingly, this civil miscellaneous petition is allowed. The orders dated 22.12.2015 and 18.03.2017 are set aside. The petitioners are directed to pay a sum of Rs.32,160/- to the decree holder within one month from the date of receipt of this order. Before parting with this order, I find that the Executive Engineer, petitioner no.2, Drainage Division, Koshi Project, Madhepura is solely responsible for non-payment of the decretal amount since 1997. Although the decretal amount was a meager amount but the petitioner took 22 years for making entire payment,



therefore, the cost of Rs.50,000/- is imposed for non-payment of decretal amount for such a long period and the cost shall be realized from the monthly salary of the Executive Engineer, petitioner no.2. The cost shall be deposited in the account of legal aid of Bihar State Legal Services Authority within two months from the date of receipt of this order failing which the cost shall be realized from the Executive Engineer, petitioner no.2 as arrears of revenue.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2018
Transmission Date	NA

