

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

RSA No.989 of 2016 (O&M)

Date of decision : 29.08.2018

Punjab State Civil Supplies Corporation Limited and another

...Appellants

Versus

M/s Mohit Rice Mills and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Athar Ahmed, Advocate for the appellants.

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**ANIL KSHETARPAL, J. (ORAL)**

**CM No.2696-C of 2016**

For the reasons stated in the application, which is duly supported by an affidavit, delay of 66 days in filing the present appeal is condoned.

Application is allowed.

**Main case**

The only dispute in the present appeal is with regard to the payment of interest during the pendency of the suit and future interest. The principal amount i.e. ₹1,62,613/- has been decreed by both the Courts below.

Learned trial Court decreed the suit alongwith interest at the rate of 12% p.a. from the date of filing of the suit and with a future interest of 6% p.a. from the date of decree till realisation. The Appellate Court

modified the judgment of the trial Court and held in favour of the appellants that the principal amount shall be payable alongwith interest at the rate of 12% p.a. w.e.f. 30.09.2002 i.e. the last date when the rice was to be supplied, wherein defendants defaulted.

Learned counsel for the appellants submitted that since there was an agreement providing for interest at the rate of 21% p.a., the Court could not have exercised the discretion.

This Court has considered the submission.

Section 34 of the Code of Civil Procedure gives a discretion to the Civil Court to adjudge the interest payable. Section 34 of the Code of Civil Procedure, is extracted as under:-

*“34. Interest.— (1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, [with further interest at such rate not exceeding six per cent per annum as the Court deems reasonable on such principal sum], from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit:*

*[Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.*

*Explanation I.—In this Sub-section, “nationalised bank” means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).*

*Explanation II.—For the purposes of this section, a transaction is a commercial transaction, if it is connected with the industry, trade or business of the party incurring the liability.]*

*(2) Where such a decree is silent with respect to the payment of further interest [on such principal sum] from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.”*

From a careful reading of the aforesaid provision, it is apparent that the Civil Court has a discretion to determine the appropriate rate of interest payable on the principal amount. The words used by Section 34 are at such rate as the Court deems reasonable to be paid on the principal sum adjudged.

In such circumstances, this Court does not consider it appropriate to interfere in the second appeal.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

**29.08.2018**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**