

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **RFA No. 652/2018 and C.M. No.32213/2018(stay)**

% **29th November, 2018**

RAJENDER JAINA & ANOTHER

..... Appellants

Through: Mr. Rajesh Aggarwal,
Advocate (M. No.9810179438).

versus

KALI DAS DUTT

..... Respondent

Through: Mr. S.K. Bhaduri, Advocate.
(M. No.9810439195).

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. In this appeal, a limited notice was issued on 10.08.2018 confining the issue only to the reduction of the interest on compounded basis granted in favour of the respondent/plaintiff and against the appellants/defendants. This order dated 10.08.2018 reads as under:-

“CM No. 32214/2018 (Exemption)

1. Exemption allowed subject to just exceptions.

CM stands disposed of.

CM No. 32215/2018 (delay in re-filing)

2. For the reasons stated in the application, delay in re-filing is condoned, subject to just exceptions.

CM stands disposed of.

RFA No. 652/2018 & CM No. 32213/2018 (stay)

3. Learned counsel for the appellants presses this appeal only with respect to change of the rate of interest granted from 9% per annum compounded yearly to 9% per annum simple in view of the catena of judgments of the Supreme Court that in view of the consistent fall in the interest regime, courts should not award high rate of interest. These judgments of the Supreme Court which are relied upon are *Rajendra Construction Co. v. Maharashtra Housing & Area Development Authority and others*, 2005 (6) SCC 678, *McDermott International Inc. v. Burn Standard Co. Ltd. and others*, 2006 (11) SCC 181, *Rajasthan State Road Transport Corporation v. Indag Rubber Ltd.*, (2006) 7 SCC 700, *Krishna Bhagya Jala Nigam Ltd. v. G.Harischandra*, 2007 (2) SCC 720 & *State of Rajasthan Vs. Ferro Concrete Construction Pvt. Ltd* (2009) 3 Arb. LR 140 (SC)

4. Limited to the aforesaid aspect, notice of this appeal be issued to the respondent on filing of process fee, both in the ordinary method as well as by registered AD post, returnable on 29th November, 2018.

5. Subject to the appellants depositing an amount of Rs.1,19,925/- in this Court alongwith interest at 9% per annum simple from 24.10.1986 within a period of two weeks from today, there shall be stay of the operation of the impugned judgment dated 27.2.2018 passed by Sh. Vishal Singh, ADJ-06, Central District, Tis Hazari Courts, Delhi in CS No. 10097/2016 titled as *Shri Kali Das Dutt Vs. Sh. Rajender Jaina & Anr.*

Dasti.”

2. It is not disputed on behalf of the respondent/plaintiff that there is no contract for payment of compound interest. In law, compound interest can only be granted, which results in increasing

interest every year, only if there is a contract to pay such compound interest. Once, admittedly, there is no contract to pay the compound interest, the trial court has committed a serious error in granting compounded rate of interest. The judgments of the Supreme Court directing that the rates of interest should not be high, have been referred to in the Order dated 10.08.2018 of this Court which has been reproduced above.

3. In view of the aforesaid discussion, this appeal is allowed by directing that rate of interest granted by the trial court will remain as it is at 9% per annum, however, the rate of interest payable will be at 9% per annum simple and not 9% per annum compounded yearly.

4. The appeal is allowed and disposed of, as stated above.

NOVEMBER 29, 2018
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VALMIKI J. MEHTA, J