IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 109

Case No. : C. R. No. 3504 of 2019

Date of Decision : September 02, 2019

State Bank of India .... Petitioner

vs.

M/s Jai Shree Hosiery Mills and others .... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Rajiv Joshi, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 02.02.2019 passed by the Civil Judge (Junior Division), Ludhiana (for short – the Executing Court), through which the plea of the petitioner – State Bank of India (for short – the petitioner Bank) to calculate the decretal amount after adding thereupon compound interest @ 15% per annum was dismissed.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the petitioner Bank filed a suit seeking therein to recover from the respondents Rs.3,89,433.75 along with future interest. Admittedly, out of the aforesaid amount, Rs.2,23,156.19 was the principal amount and Rs.1,66,277.56 was the interest which had accrued on the principal amount till the date of filing of the suit. On 30.10.1987, the petitioner Bank's suit was decreed by the Trial

Court. Respondent no. 5 filed an appeal against the aforesaid decree which was dismissed by the Additional District Judge, Ludhiana on 25.11.1994. The petitioner Bank then filed an application seeking execution of the aforesaid decree by the Trial Court dated 30.10.1987 which at one point of time was dismissed under Order 9 Rule 2 CPC as publication charges had not been deposited by the petitioner Bank. The order of such dismissal was challenged before this Court through **CR No. 4076 of 2011** – **State Bank of India vs. M/s Jai Shree Hosiery Mills and others** which, subject to costs to be paid by the petitioner Bank, was allowed.

The case set up by the petitioner Bank before the Executing Court was that on the principal amount of Rs.2,23,156.19, the interest of 15% per annum granted by the Trial Court should be treated as compound interest as that was the settled rate of interest in the agreement between the parties. Through order dated 02.02.2019, such plea raised by the petitioner Bank was rejected since the Executing Court was of the view that the Trial Court, in its judgment, had not granted compound interest. Such order of the Executing Court is under challenge in the present proceedings.

Learned counsel for the petitioner submits that as per the judgment of the Trial Court dated 30.10.1987, on the principal amount of Rs.2,23,156.19, the petitioner Bank has been held entitled to future interest @ 15% from the date of filing of the suit till its realization and since as per the agreement between the parties, the rate of interest payable by the respondents was compound interest @ 15% with quarterly rests and that relief granted by the Trial Court was based on such record produced by the petitioner Bank, the Executing Court erred in not granting compound interest @ 15% with quarterly rests.

As per report dated 25.07.2019 by the Record Keeper of the Trial Court at Ludhiana which has been placed on record as Annexure P-5, the decree in question dated 30.10.1987 passed in **<u>Civil Suit No. 48 of 1981</u>** – **<u>State Bank of India vs. M/s Jai Shree Hosiery Mills and others</u>** had been spoilt and lost on account of heavy rains which took place in Ludhiana in the year 1990. That being so, the relief clause of the judgment dated 30.10.1987, which is there on the record, can be usefully referred to. The same reads as under :-

> *"As a result of the decision on the issues arrived at by me suit of the plaintiff bank is decreed for a sum of Rs.2,23,156.19 Ps with future interest @ 15% from the date of the suit till the realisation against all the defendants holding their liability to be joint and several qua this amount and for the remaining amount of Rs.1,66,277.75 Ps which was added as interest only against defendant No. 5. Since this amount is inclusive of interest no future interest is allowed on the same. Decree sheet be framed and file be consigned to the record room."*

As per the afore-quoted relief clause of the judgment dated 30.10.1987, the petitioner Bank was held entitled to interest on the principal amount @ 15% per annum from the date of filing of the suit till its realization. Since compound interest was not granted by the Trial Court, the same is found to have rightly not been given by the Executing Court, especially when after the passing of the afore-quoted judgment, the petitioner Bank admittedly did not seek any clarification from the Trial Court with regard to the claim being raised by it now. In the absence of any clear directions by the Trial Court with regard to grant of compound interest, the petitioner Bank could and should be granted only simple interest on the principal amount.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 02, 2019
monika

Whether speaking/reasoned ?	*Yes/No.*
Whether reportable ?	*Yes/No.*