

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

A.S.Nos.855 to 859 of 2009

1.The State of Tamil Nadu

Represented by its District Collector,
Collectorate Compound,
State Bank Road,
Coimbatore - 18.

2.The Superintending Engineer,

PWD, Water Resources Organisation,
Parambikulam Aliyar Basin Circle,
Pollachi - 642 003.

..Appellants in all the appeals

Versus

P.S.G.Construction,

36, Mazid Road,

Rep. By its PWD Contractor and

Proprietor Tmt. Sivagnanaselvi,
Residing at No.108, Chennimalai Road,
Gangeyam - 638 701,
Erode District.

..Respondent in A.S. No.855 of 2009

M/s. P.Samiyappa Gounder and Brothers,

A registered Firm rep. By its

Partner (Engineering Contractor)

P.Samiyappa Gounder, P.S.G. Construction,
41 and 27, Mazid Road,
Gangeyam - 638 701,
Erode District.

..Respondent in A.S. No.856 of 2009

M/s. Priyadharshini Constructions,

(Engineering Contractor)

Registered Firm Rep. By its

Managing Partner, A.Muniyandi,
Masinagudi,
Nilgiris District.

..Respondent in A.S. No.857 of 2009

M/s. S.P.Constructions,

(Engineering Contractor)

Registered Firm Rep. By its Managing Partner,
P.Palanivelu,5/191, Vinayagar Koil Street,
Masinagudi,
Nilgiris District.

... Respondent in A.S. No.858 of 2009

P.Mayilsamy

... Respondent in A.S. No.859 of 2009

Appeal Suits filed under Section 96 of Civil Procedure Code against the Judgment and Decree of the 1st Additional District & Sessions Court, Coimbatore in O.S. Nos.82,83,84,85 & 87 of 2008 dated 28.04.2009.

For Appellants : Mr. Umesh Rao
(in all appeals) for Mr. J.Balagopal
Special Government Pleader

For Respondents
(in all appeals) : Mr. P.Muthukrishnan

COMMON JUDGMENT

A.S. No.855 of 2009

This appeal is directed against the judgment and decree in O.S. No.82 of 2008 on the file of First Additional District and Sessions Court, Coimbatore.

2. The respondent plaintiff filed a suit for recovery of a sum of Rs.6,75,663.45/- and for interest at the rate of 12% per annum on the principal amount of Rs.4,93,185/- from the date of the suit till the date of realisation. The claim of the respondent was on the basis that the respondent is entitled to receive the amount for the work done by him in accordance with the contract executed by the respondent for the appellants. Hence, the respondent claimed interest for the amount of Rs.4,93,185/- from 01.12.2004. After filing the suit the appellants have settled the amount without paying interest and the lower Court granted decree only for the payment of interest at the rate of 6% from the date of suit for the amount of Rs.4,93,185/- till the date of payment.

3. Based on the admitted facts, the plaintiff was granted interest at the rate of 6% per annum from the date of plaint till the date of payment for the admitted amount which was not paid till the filing of the suit. The appellants have challenged the judgment and decree on the ground that there is no contract for payment of interest and that there is an undertaking that no interest will be claimed by the respondent.

4. Learned Special Government Pleader appearing on behalf of the appellants submitted that the Court has awarded interest at the rate of 6% from the date of suit till the payment that was already made immediately after filing of suit. Learned Special Government Pleader further submitted that the Court below

failed to note that the terms of the contract indicate that there is no clause for payment of interest.

5. None of the grounds raised by the appellants and the points argued by the learned Special Government Pleader are acceptable. In this case, the liability of the appellants is not in dispute. The suit was filed on 30.01.2008. After filing of the suit it is admitted that the suit claim was settled by the appellants. The money was due to the respondents when the respondents completed the contract way back in the year 2004. There is no acceptable reason or explanation for the delay in payment. Though the lower Court ought to have granted interest for the delay in payment right from the date when the amount was payable, the lower Court has granted interest at 6% per annum from the date of the suit probably by referring to Section 34 of Civil Procedure Code. Absolutely there is no justification for denying interest for the delay in payment at least from the date of suit. The terms of the contract cannot be pressed into service after violating the terms of the contract with regard to the payment. Even otherwise, the liability to pay interest after filing the suit is governed by Section 34 of Civil Procedure Code and the submissions of learned Special Government Pleader has no legal basis. Hence, this Court finds no merits in this appeal and is inclined to dismiss this appeal.

Accordingly, this Appeal Suit is dismissed. No costs.

A.S. No.856,857,858 & 859 of 2009

In view of the reasons stated for dismissing the appeal in A.S. No.855 of 2009, all other appeals in A.S. Nos.856, 857 ,858 & 859 of 2009 are also liable to be dismissed as they are filed on similar grounds on identical facts. Accordingly, A.S. Nos.856, 857 ,858 & 859 of 2009 are dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The 1st Additional District & Sessions Judge, Coimbatore.

Copy to : The Section Officer, V.R.Section,
High Court of Madras, Chennai.

+5cc to Mr.P.Muthukrishnan, Advocate, SR.No.38307

+1cc to The Special Government Pleader(AS)SR.No.38745

akm/22.04.21 /3P-9C/

A.S.No.855 to 859 of 2009
30.11.2020