

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1991-2019 (O&M)

Date of Decision: January 16, 2020

Sri Kant

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Mani Ram Verma, Advocate,
Mr. Nipun Verma, Advocate,
for the appellant.**

Ravi Shanker Jha, Chief Justice,(Oral)

CM-4528-LPA-2019

For the reasons mentioned in the application, delay of 20 days in re-filing the appeal is condoned.

Application stands disposed of.

LPA-1991-2019

This appeal has been filed by the appellant-petitioner being aggrieved by an order dated 17.07.2019 passed in CWP-17545-2017 wherein the petition filed by the appellant-petitioner against order dated 15.05.2017 passed by the Executive Officer, Municipal Council, Bhiwani, declining interest on the amount that was paid to the appellant, has been allowed to the extent of interest @ 7.5% per annum for a period of five years.

The brief facts, leading to the filing of the present appeal, are that the appellant was awarded a contract for certain works in the year 2005-06 by

the Executive Officer, Municipal Council, Bhiwani. It is stated that though the works were carried out, payment in respect of the same amounting to Rs. 92 lakhs was not released to the appellant. It is stated that subsequently small amount of money were released to the appellant by the respondent on 16.04.2015, in March, 2016 and in April, 2016. Though the exact amount outstanding has not been stated, it is, however, observed that certain amounts were still outstanding in respect of which the appellant filed a Civil Writ Petition No. 10113 of 2015 praying for a direction to the Council to release the payment. The petition was disposed of on 20.05.2015 granting liberty to the appellant to file a detailed representation before the Municipal Committee, Bhiwani, which was in turn directed to decide the representation within two months. It is submitted that subsequently, the authorities paid the entire amount due to the appellant, but did not pay any interest for the period for which it was outstanding and therefore, the appellant again approached the authorities, but, his representation claiming interest was dismissed vide order dated 15.05.2017. As a result, the appellant again approached this Court by filing Civil Writ Petition No. 17545 of 2017. The learned Single Judge by the impugned order has allowed the writ petition filed by the appellant-petitioner, however, by balancing the equities interest @ 7.5% per annum on the principal amount for a period of five years has been directed to be paid.

The learned counsel appearing for the appellant submits that once the Court arrived at a conclusion that the appellant was entitled to the amount due and that the same had been paid to the appellant after considerable delay, the Court should have awarded interest @ 12% for the entire period for which the amount remained outstanding and should not have confined it only for a

period of five years. Learned counsel for the appellant submits that as the facts regarding non-payment of the principal amount was undisputed and as the learned Single Judge accepted the said contention, it was bound to award the interest for entire period and could not have restricted the same for five years.

We have heard learned counsel appearing for the appellant at length.

It is observed that the amount was outstanding in the name of the appellant since the year 2005-06. The writ petition claiming remaining outstanding amount was filed by the appellant in the year 2015. As per the appellant's own averment, the amount due to the appellant was paid by the respondents in the year 2015. From a perusal of the impugned order, it is also evident that the learned Single Judge has noted the fact that in normal circumstances, the appellant would have been required to file a civil suit for the amount outstanding, but in view of the facts of the case and the difficulty pointed out by the Municipal Council, Bhiwani with a view to balance out the equities, the appellant has been granted interest @ 7.5% per annum for a period of five years. From a perusal of the order, it is evident that the order has been passed exercising the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India. Admittedly, the amount outstanding in the name of the appellant was paid in installments and was due to the appellant since 2005 and therefore, apart from the fact that the claim under common law was barred by limitation, the adjudication on the disputed question of facts as to the actual amount of interest taking into account the part amount made by the respondents has also not been undertaken nor has the appellant been relegated to the same and with a view to balance out the equities taking into consideration the

difficulties of both the sides i.e. the appellant as well as the Municipal Council, the learned Single Judge has ordered payment of interest @ 7.5% per annum for a period of five years.

In the backdrop of the aforesaid facts, we do not find any kind of illegality or perversity in the exercise of powers by the learned Single Judge in balancing the equities between parties and passing the impugned order.

The appeal filed by the appellant being meritless is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

January 16, 2020
vkd

(Arun Palli)
Judge

Whether reasoned / speaking : Yes / No

Whether reportable : Yes / No