

22/01/2021
Item No.3 (a)DL
AB/S DE

Through Video Conference

**F.M.A. 860 of 2019
With
I. A. CAN 1 of 2019
(Old CAN 4636 of 2019)**

**Sagar Thana Primary Co-Operative Marketing
Society Limited & Anr.**

-Vs-

The State of West Bengal & Ors.

Mr. Pradip Kr. Roy,
Ms. Shraboni Sarkar ...for the Appellants.

Mr. Susovan Sengupta,
Mr. Sanjay Saha,
Mr. Subhasish Bhattacharya
...for the Respdt 3-8.

Read the previous orders.

The only outstanding issue is as to how much interest the Corporation is liable to pay to the appellants since the amount determined by the Managing Director of the Corporation as the amount payable for the supplies made by the appellants has already been received by the appellants in terms of the order sheets dated July 30, 2019, July 31, 2019 and September 5, 2019 of the Managing Director of the Corporation.

We have heard the learned Counsel for the parties. There is no dispute that even in payment of the amount determined by the Managing Director there has been delay.

Hence, we are of the opinion that the appellants are entitled to some amount of interest as otherwise it will amount to unjust enrichment of the Corporation at the expense of the appellants as there is no gratuitous element in this matter and it was a commercial contract between the parties.

In our opinion, interest @ 8% should be paid by the Corporation to the appellants from 5.9.2014 on the amount paid by the Corporation to the appellants, till the date of payment of such interest.

Interest @ 8% should also be paid on the amount of Rs.3,48,766.40 covered by the order dated 4.4.2017 from that date till date of payment.

The appeal and the connected application are, accordingly, disposed of.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Thottathil B. Radhakrishnan, C.J.)

(Arijit Banerjee, J.)

