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IA/GA/1/2015
(OLD GA/1455/2015)
RVWO/10/2015
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

EIC HOLDINGS LIMITED
VS
UNION OF INDIA

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE SUBHENDU SAMANTA
Date : 8th June 2022.

Appearance:

Mr. Nand Lal Singhanian, Advocate
Mr. Santosh Kumar Pandey, Advocate
...for applicant / Union of India

Mr. Sabyasachi Chowdhury, Advocate
Ms. Vineeta Meharia, Advocate
Mr. Amit Meharia, Advocate
Ms. Madhurima Halder, Advocate
Ms. Paramita Banerjee, Advocate
Ms. Subika Paul, Advocate
...for respondent / appellant

THE COURT:- Sufficient causes having been shown, the delay in filing the review application is condoned.

The Union of India was a tenant under EIC Holdings Limited (now known as 'EIC Holdings Private Limited'). EIC Holdings filed a suit for

eviction against Union of India. The suit was decreed by a Learned Single Judge of this Court. Possession has been handed over to the landlord. A special referee had been appointed for ascertaining the rate of mesne profits. The special referee filed a report after considering expert evidence. The Learned Single Judge modified such report and reduced the rate of mesne profits.

The landlord preferred an appeal. By an order dated October 31, 2014, a coordinate Bench set aside the Learned Single Judge's judgment and decree to the extent the same modified the special referee's report. The report of the special referee was accepted and the Division Bench passed a decree in terms thereof.

This application has been filed by the Union of India for review of the said order dated October 31, 2014. Appearing in support of the application, Mr. Singhania, learned advocate argues that the special referee in the report awarded interest @ 6% under Section 34 of the Code of Civil Procedure. This he did not have the power to do. Hence, the review petitioner is aggrieved only to the extent the special referee's report awarded interest and the same was accepted by the Division Bench by the order under review.

We are not sitting in appeal over the order dated October 31, 2014. Indeed, we cannot. There does not appear to be any error apparent on the face of the records. There is no apparent illegality in the order under

review. If the review petitioner contends that the Division Bench erred in accepting the special referee's report since the referee did not have the power to award interest, then the remedy of the review petitioner would be to approach the higher forum for correction of such error. No ground for reviewing the order dated October 31, 2014 has been made out.

Accordingly, RVWO/10/2015 and IA GA/1/2015 (Old GA/1455/2015) are dismissed, however, without any order as to costs.

(ARIJIT BANERJEE, J)

(SUBHENDU SAMANTA, J.)

s.kumar