

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105

CR No.6472 of 2018(O&M)
Date of Order: 07.05.2022

Subhash Chand

..Petitioner

Versus

Kailash Chand Gupta and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagdish Manchanda, Advocate
for the petitioner.

None for respondent no.1.

Ms. Ishita Jain, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

While partially decreeing the suit for recovery, filed by respondent no.1 herein, vide judgment and decree dated 06.10.2015, the Court decided as under:-

“As a sequel to my findings on foregoing issues especially on issue no.1, the suit of the plaintiff is hereby partly decreed with no order to costs. A decree for recovery of Rs.10,000/- along with interest at the rate of Rs.12% per month from the date of filing of the present suit is hereby passed in favour of the plaintiff. Further, the plaintiff is entitled for the payment of interest at the rate of 12% per annum on the decretal amount from the passing of this order till its realization. Decree sheet be prepared accordingly. After due compliance file be consigned to the record room.”

An application filed by the Judgment Debtor under Section 151, 152 read with Section 34 CPC, the Court has observed as under:-

“6. After hearing the arguments and perusing the case file very carefully, at this stage, it is observed by the Court that learned trial Court while passing the above said judgment and decree dated 06.10.2015 has clearly mentioned that the defendants shall pay interest on the decretal amount at the rate of 12% per annum from the date of filing of the suit till the date of judgment and decree. Further, the defendants shall pay interest on the decretal amount from the date of judgment and decree till its final realization, which shows that to separate rate of interest were awarded by learned trial Court for separate period and as such, no clerical mistake is appeared to be committed by learned trial Court while passing the above said judgment and decree dated 06.10.2015. Further, the Court is of the view that efficacious remedy available with the applicant is to file an appeal or revision against the said judgment and decree and further, if he feels aggrieved by the relief granted by learned trial Court through the said judgment and decree.

7. Therefore, keeping in view all the facts and attending circumstances, the present application is hereby dismissed being devoid of any merit.”

The learned counsel representing the petitioner contends that despite clarifying that the amount is payable with interest @ 12% per annum, the trial Court chose to dismiss the application rather than correcting the error.

From the observations made by the trial Court in the order dated 25.07.2018, it is evident that the trial Court intended to grant 12% per annum interest from the date of filing of the suit till the date of judgment and

decree.

Keeping in view the aforesaid facts, the Court should have corrected the error.

In view thereof, the judgment and decree dated 06.10.2015 shall stand modified and there shall be decree for recovery of Rs.10,000/- along with interest @ 12% per annum from the date of filing of the suit till the date of its realization.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

May 07, 2022

nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No