04-09-2023
ct no. 13
sl. no. 2
sp

F.A.T. No. 52 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023
Laddu Gopal Bajoria
-Versus-
M/s. Bharat Petroleum Corporation Ltd. & Ors.

Mr. Arindam Banerjee,
Mr. Ashis Kr. Mukherjee,
Mrs. Sulagna Mukherjee,
Mr. Saurabh Prasad
...for the appellant

Mr. Puspendu Chakraborty
...for the B.P.C.L.

1. The instant appeal has been filed against the judgement and decree dated December 17, 2019 passed in T.S. No. 121 of 1995. The appellant submits that the interim interest and interest on judgement under mesne profits have been erroneously refused.

2. This Court notes that the respondent had surrendered the premises in June, 2008 albeit with a delay of 6 days.

3. The mesne profits have been calculated decreed for a sum of Rs. 5,78,44,545/- after applying 6% interest on the principal rate of rent, payable to the appellant by the BPCL. The arrears of rent have been calculated from December, 1995 till May, 2008. Appropriate amount of capitalisation

has been applied in calculating the mesne profits @ 8%. It, therefore, essentially means that the market rate of rent as escalating from time to time, for the entire period from December 1995 to May 2008, has been duly calculated and awarded to the appellant.

4. In addition to the above, 6% interest has been awarded on the principal sum towards rent, i.e., Rs. 2,23,77,000/-. The interest on the principal sum has been calculated and arrived at Rs. 3,54,67,545/-.

5. Counsel for the appellant would argue that since the suit has been decreed on December 17, 2019, the appellant was entitled to interim interest and interest on judgement in terms of Section 34 of the Code of Civil Procedure, 1908.

6. This Court has carefully considered the entire judgement. Indeed it is true that upon the money decree being passed, the plaintiff is ordinarily entitled to interim interest at the agreed rate and interest on judgement is normally @6% unless there has been extreme demonstrated inappropriate conduct on the part of the defendant. This Court notes that the defendant has vacated the premises in June, 2008 itself.

7. The appellant has not been able to demonstrate any overt inaction or impropriety on the part of the respondent to warrant award of any pendente lite or future interest. The appellant has had the premises since June, 2008. The appellant has been sufficiently compensated for the loss of the user of the property.

8. In the facts and circumstances of the case, this Court is, therefore, not inclined to interfere with the impugned judgement to award any further interest to the appellant either in the pendente lite or post pendente lite.

9. At the risk of repetition it is held that sufficient compensation has been awarded in the process of calculation of mesne profits capitalisation of value and compensation on the property and 6% over and above that.

10. For the reasons stated above, FAT 52 of 2023 shall stand dismissed.

11. In view of the above, all connected applications shall also stand disposed of.

12. There shall be no order as to costs.

13. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)