



2024:DHC:6602-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 27.08.2024

+ **RFA(COMM) 349/2024 & CM APPL 48659/2024**

SHRIRAM EPC LTD. THROUGH AUTHORISED

SIGNATORY SH. T.A. RAMACHANDRANAPPELLANT

Through: Mr Rahul Sharma, Mr Shubham
Shekhar and Mr Himanshu Chauhan,
Advocates.

versus

M/S APEX CRANE COMPANY

.....RESPONDENT

Through: None

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL)****CM APPL. 48660/2024 [Application filed on behalf of the appellant
seeking condonation of delay of 120 days in filing the appeal]**

1. This application has been filed on behalf of the appellant seeking condonation of delay of 120 days in filing the appeal.
2. Given the fact that the parties have settled, the delay is condoned.
3. The application is disposed of.

**RFA(COMM) 349/2024 & CM APPL 48659/2024 [Application filed on
behalf of the appellant seeking interim relief]**

4. This appeal is directed against the judgment and decree dated 31.01.2024 passed by Mr N.K. Malhotra, learned District Judge, (Commercial Court) -06, Extension Block, West District, Tis Hazari Courts,

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Delhi.

5. The operative directions issued by the trial court are contained in paragraph 31 of the impugned judgment. For convenience, the said paragraph is extracted hereafter:

*“31. In view of my above discussions, the suit of the plaintiff is decreed and a decree of Rs.52,99,083/- is passed in favour of the plaintiff and against the defendant. **The plaintiff is also entitled to interest @12% per annum from 23.05.2017 till realization** along with cost of the suit. Decree sheet be prepared. File be consigned to Record Room after necessary compliance.”*

[Emphasis is ours]

6. As would be evident, the trial court has granted interest at the rate of 12% per annum, commencing from 23.05.2017 till realization, along with costs.

7. When the appeal had come up for hearing in the first instance, i.e., on 23.08.2024, we had asked Mr Rahul Sharma, learned counsel for the appellant, to seek instructions as to whether the appellant would be agreeable to disposal of the appeal with a direction that the impugned judgment and decree is modified to the extent that it excludes grant of pre-suit interest, i.e., for the period spanning between 23.05.2017 and the date of institution of the suit, i.e., 06.10.2020.

8. Mr Sharma has returned with instructions. Mr Sharma says that the appellant will be agreeable if the impugned judgment and decree is modified to the extent indicated above.

9. We had put this aspect to counsel for the respondent on the previous date, i.e., 23.08.2024 as well, who had indicated that he would have no objection if the impugned judgment and decree is modified in terms of what



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is mentioned above.

10. Accordingly, the appeal is disposed of with a direction that pre-suit interest at the rate of 12% per annum between 23.05.2017 and 06.10.2020 shall stand excluded, i.e., excised from the impugned judgment and decree.

11. The Registry will prepare a fresh decree in terms of what has been indicated above.

12. Given the fact that the suit was instituted in 2020, it would be in the interest of the appellant to pay the amount at the earliest, though not later than eight (8) weeks from today.

13. In case the decretal amount is paid in terms of the order passed today, proceedings before the executing court shall stand closed.

14. The appeal is disposed of in the aforesaid terms.

15. The pending application shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 27, 2024/ds

Click here to check corrigendum, if any

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