

(1995) 12 KAR CK 0017

In the Karnataka High Court

Case No : Regular First Appeal (FR) No. 638 of 1993

Andhra Bank

APPELLANT

Vs

Sunanda Industrial Chemicals (P.) Ltd.

RESPONDENT

Date of Decision : 14-12-1995

Acts Referred:

Mysore Court-fees and Suits Valuation Act, 1958 — Section 47 (ii), 49 (3)

Citation : (1996) ILR (Kar) 183 : (1995) 6 KarLJ 346

Hon'ble Judges : Hakeem, Acting C.J.; Tirath S. Thakur, J

Bench : Division Bench

Advocate : G.S. Venkatachalapathy, S.N. Bhat and N.S. Rajanna, for the Appellant; Vasan Associates, for R-1 and R-2 and Govt. Advocate, for the Respondent

Judgement

Hakeem, Ag. C.J.

1. This Appeal by the plaintiff is against disallowing of interest at the rate of 8% per annum with quarterly interest on certain amount. The total claim on this account comes to Rs. 5,76,627/- on which Court fee of Rs. 37,972/- would be payable.

2. The contention of Sri G.S. Venkatachalapathy, learned Counsel for the appellant is that since no Court Fee is payable in respect of interest pendente lite the Appeal has to be valued only in accordance with the provisions of Section 47(ii) of the Karnataka Court Fees and Suits Valuation Act. That would be Rs. 200/- only, which has been paid on this Appeal. We do not agree with this contention in view of the clear provisions of Explanation (3) to Section 49 of the Act, which reads thus:-

"Explanation 3 :- In claims which include the award of interest subsequent to the institution of the suit the interest accrued during the pendency of the suit till the date of decree shall be deemed to be part of the subject matter of the appeal except where such interest is relinquished."

It is clear that the emphasis is on "any claim" including the award of interest which had accrued during the pendency of the suit, regardless whether it is allowed or refused; nonetheless, it is deemed to be part of the subject matter of the Appeal. If any such claim is agitated in any appeal against the original decree, Court fee has to be paid on the value of such claim.

3. In this connection the Counsel sought to rely upon an order made in RFA No. 277/80, Canara Bank Nanjangud v. Hidayath Fertilizers Nanjangud in which under similar circumstances lesser Court fee paid was held to be sufficient. However, the order is non-speaking and no reasons are given therein. Obviously the specific provision referred to above was not brought to the notice of the Court. However, we find support for our conclusion in IMAMSAB PEEROOP AND ANR. v. SHREESHAILAPPA AND ANR. 1983(1) KLJ 291

4. In that view of the matter the office objection is sustained. If Court fee is paid within eight weeks, the Appeal may be registered and posted for admission.