

(2006) 02 P&H CK 0063
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3199 of 2005

Mahender Kumar	Vs	APPELLANT
Sri Ram and Another		RESPONDENT

Date of Decision : 03-02-2006

Acts Referred:

Citation : (2006) 2 CivCC 341 : (2006) 143 PLR 849 : (2006) 2 RCR(Civil) 473

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : None, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

Hemant Gupta, J.—The challenge in the present revision petition is to the dated 30.05.2005 passed by the learned Additional Civil Judge (Senior Division), Narnaul, whereby on account of delay in execution of the decree, the learned Executing Court passed an granting interest at the rate of 6% per annum w.e.f. 27.04.2002.

2. In a suit for specific performance of the agreement dated 20.05.1992, the learned first Appellate Court has passed a decree for payment of Rs. 90,000/- along with interest at the rate of 6% per annum from the date of filing of the suit till the date of decree. Since the decretal amount was not being paid, the learned Executing Court passed an order granting interest after the date of decree as well. It is well settled that the Executing Court cannot go behind the decree. Since the decree contemplated interest only till the date of decree, it was not open to the Executing court to grant interest beyond the date of decree on equitable consideration.

3. Consequently, I find that the order passed by the learned Executing Court suffers from patent illegality and material irregularity which cannot be sustained in law. Accordingly, the revision petition is allowed and the impugned order is set aside.