

(1992) 02 DEL CK 0041
In the Delhi High Court
Case No : E.F.A. (OS) 2/92

M/s. Foremost Industries India Ltd.

APPELLANT

Vs

Ram Swarup Khattar

RESPONDENT

Date of Decision : 14-02-1992

Acts Referred:

Citation : AIR 1993 Delhi 84 : (1992) 1 BC 341 : (1992) 22 DRJ 558 : (1992) RLR 123

Hon'ble Judges : G.C. Mittal, C.J; Sat Pal, J

Bench : Division Bench

Advocate : Mr. B. Mohan, for the Appellant;

Judgement

Gokul Chand Mital, C.J.—The decree-holder successfully obtained a decree against the appellant in a suit filed under 0.37, Civil P.C. The decree provided payment of interest on the decretal amount and the decretal amount included principal and interest due up to the date of filing of the suit.

2. In execution, an objection is being raised on behalf of the appellant, who is a judgment-debtor that interest is payable on the principal amount and not on the amount, principal plus interest, which was the basis of the suit, on which the Court awarded interest. The argument raised is that the decree, which allowed interest on the amount of interest, due up to the date of filing of the suit, should be treated as a nullity, being contrary to the provisions of S.34 of the Civil P.C. and in execution proceedings, the judgment-debtor should be allowed to raise this objection and necessary relief should be granted.

3. Firstly, such an objection cannot be raised in execution proceedings because the executing Court cannot go beyond the decree and if the decree granted by the trial Court is erroneous, the matter should have been agitated in appeal from the decree. The judgment-debtor had taken the matter up to the Supreme Court under the decree proceedings and this decree has been upheld by the Supreme Court, yet at the execution stage the appellant wants to have the decree of the

Supreme Court ignored on the plea that it is nullity. On the peculiar facts of this case, we do not agree with the contention that the decree is nullity to the extent that it awards interest on interest and the principal sum due up to the date of filing of the suit.

4. The appeal is dismissed in liming.

5. Appeal dismissed.