
(2005) 07 AP CK 0077

In the Andhra Pradesh High Court

Case No : C.R.P. No's. 4337 and 6108 of 2004

Oriental Insurance Company Ltd.

APPELLANT

Vs

Smt. V. Kala Bharathi and Others

RESPONDENT

Date of Decision : 29-07-2005

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 1, Order 21 Rule 1(1), Order 21 Rule 1(2), Order 21 Rule 1(3), Order 21 Rule 1(4)
Constitution of India, 1950 — Article 21
Contract Act, 1872 — Section 59, 61
Income Tax Act, 1961 — Section 44A
Interest Act, 1978 — Section 3, 3(3)
Land Acquisition Act, 1894 — Section 23(1), 26, 28, 31, 34
Motor Vehicles Act, 1988 — Section 173

Citation : AIR 2006 AP 31 : (2005) 6 ALD 61 : (2005) 5 ALT 564

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : A. Anasuya, for the Appellant; N. Subba Rao, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The question as to whether the amount deposited by the judgment-debtor in a decree should be adjusted first towards the decretal amount, or the interest that accrued thereon, was the subject matter of several precedents and legislative measures. However, it continues to vex the parties and the courts alike.

2. The facts, that gave rise to filing of these revisions, are as under. The parties are referred to, as arrayed in C.R.P.No. 4337 of 2004.

3. Respondents 1 to 5 (hereinafter referred to as "the respondent") filed O.P.No. 774 of 1993, before the Motor Accidents Claims Tribunal-cum-V Additional District Judge, Tirupathi (for short "the Tribunal"), claiming compensation in a sum of Rs. two crores, on account of death of Mr. V. Raj Kumar, husband of the first respondent, father of respondents 2 and 3 and son of respondents 4 and 5.

It was alleged that he dies in an accident, involving a vehicle belonging to the 6th respondent, driven by the 7th respondent, and insured with the petitioner company. Through its judgment dated 29-4-1997, the Tribunal awarded a sum of Rs. 98,40,500/-, as compensation, with interest at the rate of 12% from the date of presentation of the O.P., viz 25-10-1993.

4. The petitioner filed C.M.A.No. 1726 of 1997, before this Court. To comply with the condition in Section 173 of the Motor Vehicles Act, the petitioner deposited a sum of Rs. 25,000/- on 7-7-1997. This Court granted stay of the execution of the decree in the O.P., on 15-12-1997, on condition that a sum of Rs. 30,00,000/- is deposited. This amount was deposited on 15-12-1997. Thereafter, the respondents filed an application to vacate the interim orders. While making the interim stay absolute, this Court directed the petitioner to deposit a further sum of Rs. 30,00,000/-, and it was complied with on 15-7-1998.

5. Through its judgment dt. 19-12-2001, a Division Bench of this Court, partly allowed the C.M.A., and reduced the compensation to Rs. 56,40,000/-. The rate of interest at 12% was retained. After this, the petitioner deposited a sum of Rs. 23,27,635/-, on 10-9-2002, claiming to be in full and final satisfaction of the award.

6. The respondents filed E.P.No. 11 of 2003, on 6-6-2003, claiming that the petitioner is liable to pay a further sum of Rs. 20,16,700/-. The petitioner insisted that at the most, a sum of Rs. 36,650/- is due, and accordingly, deposited the same on 29-7-2003. The executing court, however, took the view that the amounts deposited by the petitioner, from time to time, were liable to be adjusted towards the component of interest first, and thereafter, to the portion of decretal amount. Accordingly, it fixed the liability of the petitioner, as on the date of filing of the E.P., at Rs. 17,70,657/-, through its order dated 11-8-2004. On this amount also, the Tribunal awarded interest at the rate of 12%, from the date of filing of the E.P, till the date of realization.

7. Petitioner filed C.R.P.No. 4337 of 2004 assailing this order. Respondents filed C.R.P.No. 6108 of 2004, complaining that the Executing Court adjusted the amount paid by the petitioner as costs, towards the decretal amount.

8. Smt. A. Anasuya, learned Counsel for the petitioner, submits that the petitioner deposited a sum of Rs. 83,89,285/-, from time to time, as against the award of Rs. 56,40,000/-, with 12% interest. She contends that all the amounts were deposited into court, with intimation to, or to the knowledge of the respondents, and in view of Sub-rule (4) of Rule 1 of Order 21 C.P.C., the amounts deposited from time to time, were to have been adjusted towards the decretal amount i.e. principal. Placing reliance upon Section 3 of the Interest Act, the learned Counsel submits that it is impermissible to award interest on interest, either directly or indirectly. According to her, the judgments relied upon by the respondents, were those in which the purport of Sub-rules (4) and (5) of Rule 1 of Order 21 C.P.C., introduced through Act 104 of 1976, was not taken

into account. Elaborating further, the learned Counsel submits that the Parliament felt the necessity of enacting those provisions, in the light of the conflicting opinions expressed by various High Courts, as well as the rules framed by them, and that such a vital provision cannot be ignored. She places reliance upon the judgment of the Supreme Court in Prem Nath Kapur and Another Vs. National Fertilizers Corpn. of India Ltd. and Others, and submits that though it was under the Land Acquisition Act, the principle laid down therein, squarely applies to the present case also.

9. Sri N. Subba Rao, learned Counsel for the respondent, submits that ever since the judgment of the Privy Council in Venkatadri Appa Rao v. Raja Parthasarathy Appa Rao AIR 1922 P.C. 233 the law was uniform and consistent, to the effect that amounts deposited to the credit of a decree, are to be adjusted, first towards the component of interest, and thereafter, to that of the principal. He submits that as late as in the year 1999, the Supreme Court in its judgment in M/s. Industrial Credit and Development Syndicate Now Called I.C.D.S. Ltd. Vs. Smt. Smithaben H. Patel and Others, reiterated the same principle, and that the Tribunal followed the same, in passing the order under revision.

10. The facts referred to above are not in dispute and are, in fact, borne out by record. The award passed by the Tribunal for a sum of Rs. 98,40,500/-, in favour of the respondents was modified by this Court to be the one for Rs. 56,40,000/-, with 12% interest, from the date of filing of the O.P. The same became final. The respondents do not dispute the factum of deposit of various amounts, from time to time, to the credit of the O.P. The whole controversy is, as to whether such amounts were to have been adjusted towards principal, or interest.

11. Before it was amended through Act 104 of 1976, Rule 1 of Order 21 C.P.C., was as under:

"1. (1) All money payable under a decree shall be paid as follows namely:

(a) into the Court whose duty it is to execute the decree, or

(b) out of Court to the decree-holder; or

(c) otherwise as the Court which made the decree directs.

(2) Where any payment is made under Clause (a) of Sub-rule (1) notice of such payment shall be given to the decree-holder".

Much controversy prevailed, as to the form of notice that was required to be issued under Sub-rule (2) and the consequences of failure or delay, in issuing such notice. The question was considered by the Privy Council in Venkatadri Appa Rao's case (2 supra). In that case, a portion of the decretal amount was deposited, without any stipulation or notice to the decree holder. In that context, the Privy Council observed as under:

"There is a debt due that carries interest. There are moneys that are received without a definite appropriation on the one side or on the other, and the rule

which is well established in ordinary cases is that in those circumstances the money first applied in payment of interest and then when that is satisfied in payment of the capital. That rule is referred to by Rigby, L.J., in the case of *Parr's Banking Co. v. Yates* [(1898) 2 QB 460] in these words: "the defendant's counsel relied on the old rule that does, no doubt, apply to many cases, namely, that, where both principal and interest are due, the sums paid on account must be applied first to interest. That rule, where it is applicable, is only common justice, To apply the sums paid to principal where interest has accrued upon the debt, and is not paid, would be depriving the creditor of the benefit to which he is entitled under this contract."

A similar question arose before the Bombay High Court in *Special Land Acquisition Officer Vs. Ambalal Trikamlal*, . The learned single judge of that court held that there would not be any satisfaction of the decree, until a notice of the deposit is given to the decree-holder. The concept of "cessation of interest" was referred to, in a nascent form. It was held that interest on the decretal amount would not cease to run, until the decree-holder gets notice. In *Vinayak Yeshwant Lad v. Shrikishan Chandmal Firm*, AIR 1955 M.B. 126 the then Madhya Bharath High Court took the same view, and the judgment of the Nagpur High Court in *Laxmi Narayan Ganeshdas v. Ghasiram Dalchand*, AIR 1939 Nag 191 was dissented from.

12. A Division Bench of Travancore and Cochin High Court in *Alleppey A.T.T. Devaswom v. Ponnu Ninar*, AIR 1957 TC 241 in a way, elaborated it further, drawing the authority from Clause 3 of Order 24 CPC. The question was framed as under:

"The next aspect to be considered is whether even after receipt of such notice, the decree-holder can refuse to give credit for such payments and can claim interest on full amount, inclusive of the amount, in deposit in court."

It was held;

"The reasonable and equitable course to be adopted is to draw the amounts as and when available and to credit the same towards the liability under the decree without prejudice to his (decree holder's) rights to take necessary steps to realize the balance amount due to him. The same rule must apply to the amounts deposited in court by the judgment debtor with notice to the decree-holder."

The root cause for the difference of opinions, in this regard, was the absence of any specific provision in Rule 1, as to cessation of interest in the event of deposits. Faced with this situation, some High Courts caused amendments to the provision. For example, way back in the year 1938, the Patna High Court, added the following clause, to Rule 1.

"Where interest is payable under the decree or order, such notice shall, if duly proved, operate as a bar to the accrual of such interest, upon the amount so

paid, after the date of receipt of such notice by the decree-holder."

Similarly, the Bombay High Court amended Clause 2 of Order 21 Rule 1, to the following effect, in the year 1966:

"Where any payment is made under Clause (a) of Sub-rule (1), notice of such payment shall be given by the judgment-debtor to the decree-holder either through Court or direct by registered post at the registered address of the decree-holder and upon proof of such notice, interest, if any, on the decretal amount so deposited or paid shall cease to run from the date of service of the notice."

13. Parliament had undertaken extensive amendments to the Code of Civil Procedure, in the year 1976. This exercise was preceded by a series of law reports, submitted by the Law Commission. A Committee of Experts was also appointed, to undertake an in-depth study into the matter. In relation to this aspect, the report of the Committee reads as under:

"The Committee note that there is no provision in the Code in relation to cessation of interest on the money paid under a decree, out of Court, to a decree-holder, by postal money order or through a bank or by any other mode wherein payment is evidenced in writing. The Committee are of the view that in such a case, the interest should cease to run from the date of such payment."

The 14th report of the Law Commission identified, enactment of a provision, as to cessation of interest, as one of the objects. The report took a specific note of the amendments of Bombay and Patna High Courts, to Rule 1, in this regard, as well as the three judgments of the Bombay, Madhya Bharat and Travencore High Courts, referred to above. It was recommended that an amendment on those lines, needs to be undertaken.

14. It was in this context that Rule 1 of Order 21 C.P.C. came to be replaced by a new provision in the year 1976, which is to the following effect:

"Rule 1. Modes of paying money under decree: (1) All money, payable under a decree shall be paid as follows, namely:

(a) by deposit into the Court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank; or

(b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; or

(c) otherwise, as the Court which made the decree, directs.

(2) Where any payment is made under Clause (a) or Clause (c) of Sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due.

(3) Where money is paid by postal money order or through a bank under Clause (a) or Clause (b) of Sub-rule (1), the money order or payment through bank, as

the case may be, shall accurately state the following particulars, namely:

- (a) the number of the original suit;
 - (b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants;
 - (c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;
 - (d) the number of the execution case of the Court, where such case is pending; and
 - (e) the name and address of the payer.
- (4) On any amount paid under Clause (a) or Clause (c) of Sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in Sub-rule (2).
- (5) On any amount paid under Clause (b) of Sub-rule (1), interest, if any, shall cease to run from the date of such payment:

Provided that, where the decree-holder refuses to accept the postal money order or payment through a bank, interest shall cease to run from the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run from the date on which the money would have been tendered to him in the ordinary course of business of the postal authorities or the bank, as the case may be."

A comparison of the Rule 1 of Order 21 C.P.C., as it stood before and after amendment, discloses that substantial changes were brought about, on three aspects, namely,

- (a) mode of deposit of the decretal amount;
- (b) manner of service of notice of payment on the decree-holder; and
- (c) cessation of interest on the amount deposited into the court.

Sub-rules (1) and (3) of Rule 1 deal with the mode of deposit. Sub-rule (2) stipulated the requirement and form of notice. Sub-rules (4) and (5) of Rule 1 provide for cessation of interest on the amount paid or deposited, under Clauses (a) and (c) or (b), as the case may be, of Sub-rule (1) from the date of service of such payment.

15. Before undertaking further discussion, an important aspect needs to be noted. In the matter of service of notice of deposit of the decretal amount into the Court, existence of knowledge of such deposit, to the decree holder, is treated as equivalent to service of notice. This was recognized by the Supreme Court in *Rajasthan State Road Transport Corporation, Jaipur Vs. Smt. Poonam*

Pahwa and others, . In Ramankutty v. Motor Accidents Claims Tribunal, Ernakulam, 2001 ACJ 445 (D.B.) (Kerala) a Division Bench of the Kerala High Court, discussed the relevant provisions and precedents on the subject, and held;

"Thus, it is the duty of the judgment-debtor to give notice of such deposit to the decree holder and till notice of such deposit is given or till the decree holder becomes aware of the deposit of the amount, he is entitled to interest on the award amount."

16. It is true that in a plethora of judgments, the Supreme Court, as well as the High Courts, took the view that any amount deposited under Rule 1 of Order 21 C.P.C., must be first adjusted towards interest. Discussion on those judgments, vis-a-vis, Sub-rules (4) and (5) of Rule 1 of Order 21 C.P.C., is prone to be taken or mistaken, as an attempt to explain the judgments of the Supreme Court or High Courts. However, since some of the judgments of the Supreme Court were delivered, at a time, when Sub-rules (4) and (5) were not on the statute book, and in the judgments rendered thereafter, the attention of the Hon"ble Supreme Court and the High Courts was not pointedly invited to these provisions in certain cases, or they did not fall for consideration, it is felt necessary to address the issue, without meaning any disrespect or disregard to the Hon"ble Supreme Court, or the High Courts.

17. The first of the Judgments of the Hon"ble Supreme Court, in this regard, was the one in Meghraj and Others Vs. Mst. Bayabai and Others, . Their Lordships were dealing with Rule 1 of Order 21 C.P.C., as it stood before the amendment, and the emphasis was much upon the consequences of non-service of notice of payment. Reliance was placed upon the judgment of the Privy Council in Venkatadri Appa Rao's case (2 supra), which also interpreted, that very provision. The relevant observation of the Supreme Court in this case reads as under:

"But the normal rule is that in the case of a debt due with interest any payment made by the debtor is in the first instance to be applied towards satisfaction of interest and thereafter to the principal".

The principle laid down in Meghraj's case (10 supra,) was followed by the Supreme Court in Mathunni Mathai Vs. Hindustan Organic Chemicals Limited and another, , in relation to a matter arising under the Land Acquisition Act. In this case also, the controversy was mainly, as to the service of notice of deposit of decretal amount. Their Lordships took note of the amendment caused to Rule 1 of Order 21 C.P.C., in the year 1976, and held that any doubt, as to the requirement as to service of notice of payment on the decree-holder, is removed through the amendment, and it is made an obligatory under Sub-rule (2). A clear observation was made to the effect that the interest shall cease to run, from the date of service of notice. The same is evident, from the following passage of that judgment:

"The reason for the rule both in the unamended and amended provision appears

to be that if the judgment-debtor intends that the running of interest should cease, then he must intimate in writing and ensure that it is served on the decree-holder. Sub-rules (4) and (5) added in 1976 to protect the judgment-debtor, provide for cessation of interest from the date of deposit or payment. But the cessation of interest under Sub-rule (4) takes place not by payment alone but from the date of service of the notice referred to in Sub-rule (2). It is not necessary for purposes of this case to decide whether the creditor was bound to appropriate the amount towards principal once it was deposited in court and intimation of the deposit was served on the decree-holder as it does not appear that the respondent ever served any notice on the appellant about the deposit. It is true that the amount was deposited in January 1988. But in the absence of any intimation as required by Sub-rule (2) and indication of manner of appropriation, the payment could not be deemed to have been appropriated towards principal unless the decree-holder admits it to be so."

(Emphasis supplied)

18. From the present context, two aspects can be culled out from this judgment. Their Lordships felt it not necessary, in that case, to decide whether the deposited amount was liable to be adjusted towards interest or principal, obviously because the controversy was only about service of notice. Secondly, the last sentence of the portion extracted above, discloses that if there is a proper intimation or notice of the deposit, the amount is capable of being adjusted towards principal and not interest.

19. This judgment was held to be not correct law, in a subsequent judgment of Three-Judge Bench of the Supreme Court, in Premnath Kapur's case (1 supra), However, it was mostly on the ground that the principles underlying Order 21 Rule 1 C.P.C., do not apply to the proceedings governed by Sections 28 and 34 of Land Acquisition Act. In other words, its applicability to situation, covered by Order 21 C.P.C. remains intact. Further, paragraph 13 of judgment in Premnath Kapur's case (1 supra) provides valuable guidance, in the matter of accrual of interest, on decretal amounts, though it is in relation to provisions of the Land Acquisition Act. It reads as under:

"Para 13: Thus we hold that the liability to pay interest on the amount of compensation determined u/s 23(1) continues to subsist until it is paid to the owner or interested person or deposited into court u/s 34 read with Section 31. Equally, the liability to pay interest on the excess (sic. enhanced?) amount of compensation determined by the Civil Court u/s 26 over and above the compensation determined by the Collector/Land Acquisition Officer u/s subsists until it is deposited into court. Proprio vigore in case of further enhancement of the compensation appeal u/s 54 to the extent of the said enhanced amount or part thereof, the liability subsists until it is deposited into court. The liability to pay interest ceases on the date of which the deposit into court is made with the amount of compensation so deposited. As held earlier, the computation of the interest should be calculated from the date of taking possession till date of

payment or deposit in terms of Section 34 or deposit into court in terms of Section 28, as the case may be."

Another important judgment of the Supreme Court, in this regard, is the one in Rajasthan State Road Transport Corporation's case (8 supra). The Supreme Court took note of its judgments in Mathunni Mathai's case (11 supra) and Premnath Kapur's case (1 supra). This again, was mostly in relation to obligation of the judgment-debtor to serve the notice upon the decree-holder, as and when any deposits are made, and the corresponding obligation to pay interest, till such notice is served. In that case, the Motor Accidents Claims Tribunal awarded a sum of Rs. 2,50,000/-, with interest at 12% from the date of filing of the claim, till the date of realization. On 27-6-1986, the appellant deposited a sum of Rs. 3,36,111-30 ps., representing the decretal amount and interest that accrued up to the date of deposit. However, the decree-holder came to know of such deposit, only on 19-4-1989. The dispute was, as to whether the appellant was liable to pay interest, from the date of deposit, till the date of knowledge, to the respondent. It was in this context that the Supreme Court took note of these judgments, and ultimately held as under:

"Para 34: After the amendment of Order 21, Rule 1, CPC in 1976, there is no scope for controversy as to the liability of the judgment-debtor when the decretal amount is deposited in court but the notice of such deposit is not given to the decree-holder. It is imperative that the judgment-debtor has to give notice to the decree-holder about deposit of the decretal amount."

The occasion to examine the question of adjustment of any amount, towards the principal or interest, did not arise in that case. It was explained that the judgment in Mathunni Matai's case (11 supra) holds the field.

20. In ICDS Ltd's case (3 supra), their Lordships examined the obligation of the judgment-debtor, to serve the notice on the decree-holder, in respect of deposits made into the court, and ultimately it was held as under:

"In view of what has been noticed hereinabove, we hold that the general rule of appropriation of payments towards a decretal amount is that such an amount is to be adjusted firstly, strictly in accordance with the direction contained in the decree and in the absence of such direction, adjustments be made firstly in payment of interest and costs and thereafter in payment of the principal amount. Such a principle is, however, subject to one exception, i.e. that the parties may agree to the adjustment of the payment in any other manner despite the decree. As and when such an agreement is pleaded, the onus of proving is always upon the person pleading the agreement contrary to the general rule or the terms of the decree schedule. The provisions of Sections 59 - 61 of the Contract Act are applicable in cases where a debtor owes several distinct debts to one person and do not deal with cases in which the principal and interest are due on a single debt."

The submissions touching on the effect of Sub-rules (4) and (5) of Rule 1 of

Order 21 C.P.C., do not appear to have been made before the Hon^{ble} Supreme Court, as to cessation of interest. Therefore, no discussion ensued, on the obligation to serve the notice, as and when deposits are made. Further, there is no indication in this judgment to suggest that the view taken in Mathunni Mathai's case (11 supra), as to the implication of Sub-rules (4) and (5) of Rule 1 of Order 21 C.P.C is overruled or deviated from.

21 One of the known Principles of Interpretation of Statutes is that every endeavour shall be made by the Courts, to give effect to the words used by the legislature, except where such interpretation leads to absurdity. In *The J.K. Cotton Spinning and Weaving Mills Co. Ltd. Vs. The State of Uttar Pradesh and Others*, , the Supreme Court observed that the Courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. In *Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. Vs. Custodian of Vested Forests, Palghat and another*, the Supreme Court held that in the course of ascertaining legislative intention, Court must not only listen to the voice of the legislature, but also should attentively listen as to what the legislature does not say. Reference may be made to the judgments of the Supreme Court in *Rao Shiv Bahadur Singh and Another Vs. The State of Vindhya Pradesh*, and *State of Uttar Pradesh Ors. Vs. Radhey Shyam Nigam and Others*, .

22. Taking the aid of the historical circumstances that led to the enactment of a provision is one of the recognized aids of the interpretation. These circumstances are mostly reflected in the Statement of Objects and Reasons, appended to enactment, as well as the Reports of the Commissions and Inquiry Committees, which preceded the introduction of the Bill. The judgments of the Supreme Court in *Utkal Contractors and Joinery (P) Ltd. and Others Vs. State of Orissa*, and *Amar Nath and Others Vs. State of Haryana and Another*, to mention a few, have recognized this principle. However, it has to be borne in mind that the assistance of such materials can be taken for the limited purpose of ascertaining the legislative intent, but not for the determination of the validity or legality of the provision.

23. In umpteen number of cases, the Supreme Court had referred to the Reports of the Commissions, created under the Constitution of India, or the relevant enactments, and those submitted by the Inquiry Committees, constituted for a special purpose, which in turn, resulted in enactment of a statute, to ascertain the real purport of the enacted provisions. Way back in 1950, Chief Justice Kania, in *A.K. Gopalan Vs. The State of Madras*, , referred to the Report of the Drafting Committee of the Constituent Assembly, while interpreting Article 21 of the Constitution of India. In *Commissioner of Income Tax, Gujarat Vs. Vadilal Lallubhai, etc. etc.*, the Supreme Court referred to the Report of the Select Committee, to find out the mischief that was sought to be remedied, through introduction of Section 44A of the Income Tax Act. The same exercise was resorted to, in *R.S. Nayak Vs. A.R. Antulay*, . In *Mithilesh Kumar and Another Vs.*

Prem Behari Khare, it was held:

"Where a particular enactment or amendment is the result of recommendation of the Law Commission of India, it may be permissible to refer to the relevant report."

That case arose, in the context of the Benami Transactions (Prohibition) Act, 1998. Therefore, there is enormous authority, for the proposition that the Courts may look into the material that constitutes the basis for enactment of a statute, or amendment thereof. 24. Viewed from this context, it is evident that Parliament added Sub-rules (4) and (5), with a definite and avowed object of arresting the running of interest, on the deposits made by the decree-holder (sic. J.Dr.), into a court. The background, in which those provisions came to be incorporated, has already been indicated in the preceding paragraphs. Sub-rules (4) and (5), by themselves, do not disclose as to whether the amount should be adjusted towards principal or interest. However, the expression "interest if any", occurring in both the provisions, is significant. A decree may comprise of principal amount, claimed in the suit, as well as a component of interest, up to the date of decree. Once a decree is passed for certain amount, it becomes a principal by itself, and the liability to pay interest thereon, and if so, the rate at which it is to be paid, would depend upon the terms of decree. The amount that carries the interest, till the date of realization, would be the one, stipulated in the decree. It is not permissible for a court to award interest on interest. Sub-section (3) of Section 3 of the Interest Act clearly prohibits grant of interest on interest. Therefore, the only component of the decree, that can be related to the expression "interest if any", occurring in Sub-rules (4) and (5) of Rule 1, is the decretal amount, which in other words, is the principal.

25. As held by the Supreme Court in number of cases, the purpose of awarding interest, on decretal amount, is to compensate the decree-holder for the delayed payment. This object continues to be honoured, even where, the part payment made by a judgment debtor is adjusted towards the principal. For instance, if the decree is for a sum of Rs. 1,00,000/-, and the judgment-debtor deposits only Rs. 40,000/-. The balance of Rs. 60,000/- would continue to earn interest. Cessation of interest, on the amount of Rs. 40,000/- deposited by the judgment debtor, would fully accord with the letter and spirit of Sub-rule (4) of Rule 1 of Order 21 C.P.C.

26. The issue can be examined from another angle. For example, a sum of Rs. 50,000/-, accrued as interest, on the decretal amount of Rs. 1,00,000/-, by the time the judgment debtor deposited towards component of interest of Rs. 40,000/-. If the deposited amount is to be adjusted towards component of interest of Rs. 50,000/-, Sub-rule (4) would be rendered otiose, since the amount of Rs. 50,000/-, which was by itself a component of interest, was never intended to earn interest and it did not carry "interest if any". What is prohibited by the Interest Act directly, cannot be permitted to be done indirectly.

27. Further, it is not as if the decree-holder has to depend on the readiness of the judgment-debtor to deposit the decretal amount. Execution proceedings for attachment and sale, or arrest of the judgment-debtor, can be initiated for realizing the entire decretal amount or any portion left unpaid. The facility, to adjust the payments into the court, towards interest, and to remain silent till next payments made, if extended to the judgment-debtor, may change the very connotation and character of execution proceedings. The decree-holder cannot take advantage of his own inaction.

28. This interpretation is subject, however, to certain limitations which are inbuilt in Rule 1, itself. For example, under Clause (c) of Rule 1(1), the court may direct a particular mode of payment. The mode so indicated, may provide for payment of instalments, and each instalment may contain a component of decretal amount and the interest. There may also be a stipulation to the effect that inordinate delay in payment of an instalment would attract interest at agreed rates, or that the decree holder may execute the entire decree, forfeiting the payments, if any. Similarly, while making remittance through Money Orders, or through Bank, as provided for under Sub-rule (3), the judgment debtor himself may indicate that the amount sent by him, or part of it, be adjusted towards interest. In all such cases, Sub-rules (4) and (5) may not become much of relevance. The situations are governed by terms of decrees or intentions expressed by the parties, than by operation of law.

29. The deposits made by the judgment debtors, in compliance with the condition imposed by the appellate courts, present a different kind of situation. If the orders of the appellate courts are clear, as to the mode of adjustment, no problem as such, would arise. However, where such orders are silent on that aspect, Sub-rule (4) of Rule 1 would govern the situation, and the part payments deserve to be adjusted towards the principal decretal amount, and not any component of interest accrued, up to that date.

30. In Premnath Kapur's case (1 supra), the Supreme Court held that once the awarded sum is deposited by the Land Acquisition Officer, interest would cease to run on that amount, when the matter is being canvassed in reference, or appellate court. In other words, the interest and other benefits of enhanced compensation would run, only from the date of such enhancement. There is no reason why the same principle be not applied to the other cases also, in relation to principal amount. If all the payments made by the judgment debtor, either voluntarily, or in pursuance of the orders of the appellate court, are to be adjusted towards interest alone, a situation may arise, where, even if the decree is slashed to half, the liability of the decree-holder (sic. J.Dr.) may remain substantially the same, on account of long pendency of appeals.

31. It is true that the cases decided so far, do not strictly support this view, and in a way, may suggest the other point of view. However, an effort is made by this Court to explain the purport of Sub-rules (4) and (5) of Rule 1. This Court is conscious of the requirement to follow the precedents, as well as its obligation,

to give effect to the legislative mandate. An endeavour is made to honour both the obligations. Having regard to the importance of the issue and the implications involved in it, further discussion may ensue at appropriate levels.

32. So far as the amount representing the costs is concerned, It is impermissible to adjust such amount when paid towards part of the decretal amount. The amount deposited towards costs, in pursuance of the directions of this Court, must be adjusted towards that, and not towards payment of the decretal amount. To that extent, the grievance of the respondents can be treated as genuine.

33. For the foregoing reasons, the C.R.P.Nos. 4337 of 2004 and 6108 of 2004 are allowed. The orders under revision are set aside. The executing court is directed to pass fresh order, duly taking into account, the principles indicated in the judgment. There shall be no order as to costs.